Huntingdon Smithson his Booke

A a

EIRENARCHA:
or of

The office of the Iustices
of Peace in foure
Bookes,

Gathered 1579: first published 1581: and now secondly reuised, corrected, and enlarged *agreeably to the reformed* Commission of the Peace, in this 34. yeare of the peaceable raigne of our most gratious Queene ELIZABETH.

By WILLIAM LAMBARD of Lincolnes Inne, Gent.

Ha tibi erunt artes, pacique imponere morem.

AT LONDON,
Printed by Ralph Newbery.
Cum Priuilegio.

Anno Domini,
1592.



THE PROHEME TO the worke following.



TO write of the Office and Duetie of Iustices of the Peace, after M. Marrowe (whose learned Reading in that behalfe made the xviii. yeare of King Henry the vii. is in many hands to be seene) and after the reuerend Iustice Fitzherbert (who published an excellent treatise therof, which is yet euery where to be had) may at the first seeme no lesse vnaduisedly done, then if a man should bring Owles to *Athens* (as the Prouerbe is) or carrie sticks into a growing Wood or Copise. How be it, if it be considered, that since their time, this Office is charged with many Statutes, which were not made when their Writings were penned: and if it be weighed also, that sundry things in them had then the force of Law, which nowe at this day they haue lost by alteration of like authoritie: It can not be thought altogether in vaine, to conferre their writings with the Booke cases, and Statutes that haue arisen of latter times,

and out of them all to collect some discourse, that may serue for the present age wherein wee now liue, and somewhat further the good endeuour of such gentlemen as be not trained vp in the continuall studie of the lawes.

In which doing, as I doe meane to robbe no man of his right, but to yeelde to each one the due praise of his owne, lest (as the Poet sayde)

Moueat Cornicula risum,
Furtiuis nudata coloribus:

So, if I my selfe shal be found here and there to dissent in opinion from other men, I desire heartily, that my good meaning bee not euill interpreted, that my allegations & reasons be weighed indifferently, and that the respect of my person bring no preiudice to the thing in question.

The diuision of this worke.

The whole labour I haue thought good (for helpe of the Readers memorie) to breake into foure seuerall Bookes, intending to spend the first in a summary consideration and Theorique of the whole office belonging to this Iustice: and in the other three to set forth the whole practise of the same, as well at home, as at the Sessions: Dealing in the second, with those causes which one Iustice alone, and in the third with those which moe Iustices may vndertake without the helpe of the Session of the Peace: and in the fourth, handling such matters, as haue regard onely to those Sessions.

THE

THE FIRST BOOKE,

conteining a THEORIQVE of the office of the *Iustices* of Peace.

What *Iustices* of the *Peace* be, and why they are called *Iustices*.

Cap. 1.

IVSTICES of the Peace, bee Iudges of Record appointed by the Queene to be Iustices within certaine limittes, for the Conseruation of the Peace, and for the execution of sundrie things comprehended in their Commission, and in diuers lawes committed vnto them. A definition (or description) of *Iustices* of the *Peace*.

These, and many other Iudiciall officers in our law, bee called Iustices *(per Metonymiam subiecti)* because they doe (or should doe) law and Iustice. For in manie olde histories, the Chiefe Iustice of *England*, is termed *Capitalis Iustitia*, and *Prima (post Regem) in Anglia, Iustitia*: and the Originall Writtes that are in M. Glanuils Booke (which was written vnder the raigne of King Henrie the second) Why they be called *Iustices*.

haue this forme, *quod sit coram me, vel Iustitijs meis*: And this (no doubt) was done of speciall purpose, and to the end, that the mention of their name, should put them in minde of their office, and should continually (as it were) sollicite them to administer Iustice, for whose sake they were appointed.

But in the dayes of King Henry the thirde, M. Bract. (who reduced the body of our law into Latine, and therein imitated the Methode of the Ciuile Lawyers) changed the worde *Iustitijs* into *Iustitiarijs*, (how Latine like, let them iudge that can skill) and setteth downe the Writs accordingly, *coram Iustitiarijs nostris*. Since which time, not onely all our Writs that commaund appearance before the Iustices at *Westminster*, doe vse the worde *Iustitiarijs*, but all Commissions of Sewers, of the Peace, of Oyer and Terminer, and such like, doe obserue the same forme also.

And of this it commeth, that M. Fitzherbert (in his treatise of the Iustices of Peace) calleth them Iusticers (contractly for Iusticiars) and not Iustices, as we commonly (and not altogether vnproperly) doe name them.

Of

Of the signification of this word Peace.

CAP. II.

OF the Latine worde *Pax*, the Normans framed their *Paix*, and we out of that, our Peace: which name hath sundry significations both in the holy Scripture of God, and the Lawes of our Realme: For there is an inward, and an outward Peace. And this inward Peace, is eyther good or euill: First then, there is *pax apud Deum*, that is to say, our reconciliation made with God the father, by the death of Christ his sonne, who is *pax nostra*, and hath appeased the wrath of God for our sinnes.

Peace, hath many significations.

Out of this proceedeth an other inwarde Peace, named the Peace of Conscience, for that our conscience is (by faith in Christ) at Peace, both with God & it self. The euil inward Peace, is that same mũdane Peace wherof our sauiour Christ spake, saying: *Pacem do vobis, non quemadmodum mundus dat*: And this Peace, the kingly Prophet Dauid calleth *Pacem peccatorum*, because it is no better than carnall securitie.

The outward Peace, hath respect to other men, and that is of two sorts also: the one is opposed (or set) against all maner of striuing and contentiõ, whether it be in countenance, gesture, word, or worke: of the which S. Paul spake to the

Romans in these words: *Si fieri potest quantum in vobis est, cum omnibus hominibus pacem habetote:* And in the same meaning, the Latine men say, *Pace tua*, by your good leaue, or fauour, without your offence, or displeasure. The other is onely an abstinence from actuall force, and from offer of violence, and is rather contrary to *arma, prælium*, and *bellum*, (which cannot be without force, or armes) then it is to *lis, pugna*, or *certamen*, which (as Laurence Valla confesseth) may be *nudis verbis, & citra arma*. And hereof also our Sauiour Christ spake, when he sayde, *Non veni vt mitterem pacem, sed gladium.*

Peace in our lawe.

The law of our Realme likewise vseth the worde Peace diuerslie, but yet so, as it is altogether occupied about these outward Peaces. For, as Cicero saide of fraudes, *aliter leges, aliter Philosophi, tollunt astutias: leges quatenus manu tenere res possunt, Philosophi quatenus ratione & intelligentia:* euen so may I truely affirme, that (in the matter of Peace) the Lawe of God (which onely is the true Philosophie) respecteth the minde and conscience, although the lawes of men doe looke but to the bodie, hands, and weapons.

Sometimes therefore, the word Peace is taken for Protection, or defence: as where M. Bracton calleth the Writs of Protection, *Breuia de pace:* Sometimes (as it seemeth to me) it is taken for Rights, Priuiledges, and Liberties, as

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in the oath of the Queene at her Coronation, she sweareth, *Seruare Ecclesiæ Dei, Cleri, & populi, pacem ex integro:* the meaning whereof is, (as I suppose) that she will maintaine each degree and estate of her Subiects, as well Ecclesiasticall, as Temporall (for *Populus* there comprehendeth all the Laitie) according to their seuerall customes, Lawes, and priuiledges. And sometimes it is taken for a withholding (or abstinence) from that iniurious force and violence, whereof I spake before. And this is it that is most commonly vnderstood by the word Peace, in our Law: & for the maintenance hereof chiefly, were these Wardeins and Iustices of the Peace first made and apoynted.

Peace, for *Iustices* of the *Peace.*

For Iustices of the Peace were not ordained (as some haue thought) to the end to reduce the people to an vniuersall vnanimitie (or agreement of mindes) which is in deede a thing rather to bee wished for, then to bee hoped after: Neither is it any part of their office to forbid lawful suites and controuersies (which neuertheless be disagreements of minds) but to suppresse iniurious force and violence, mooued against the person, his goods, or possessions.

And, that this may appeare to bee the minde of that king, which first created these Wardens or Iustices of the Peace (I meane King Ed. the third) let me shewe you the very Writ that bee in the first yeere of his raigne, and not many weekes

weekes before the Parliament, in which the Gardeins of the Peace (who afterward obtayned the name of Iustices of the Peace) were first ordayned, did sende to the Shiriffes of all the Shires in *England*, bearing this forme.

Tho Walsingham in histo. pag. 107.

EDWARDVS, *Dei gratia Rex Angliæ, Dom. Hybernia, Dux Acquitaniæ, Vicecomiti Kanc. salutem. Quia Dom. Edwardus, nuper Rex Angl. pater noster, de communi assensu prælatorum, Comitum, Barònum, & aliorum Magnatum, necnon Communitatum totius regni prædicti, spontanea voluntate se amouit à regimine dicti regni, volens & concedens quòd nos (tanquam ipsius primogenitus, & Hæres ipsius) regni gubernationem & regimen assumamus: Nós q, ipsius patris beneplacito in hac parte de consilio & assamento Prælatorum, Comitum, & Baronum prædictorum annuentes, gubernacula susc epimus dicti regni, & fidelitates & homagia ipsorum Prælatorum & Magnatum recepimus, vt est moris: Desiderantes igitur pacem nostram pro quiete & trãquilitate populi nostri inuiolabiliter obseruari, Tibi præcipimus, quòd statim (visis præsentibus) per totam Balliuam tuam Pacem nostram facias publicè proclamari, vniuersis & singulis ex parte nostra inhibendo, sub pœna & periculo exhæredationis & amissionis vitæ & membrorum, ne quis dictam Pacem nostram refringere seu violare præsumat: sed quilibet actiones & querelas absq, violentia quacunque prosequatur, secundùm leges & con-*

& consuetudines regni nostri: Nos enim parati sumus, & semper erimus, omnibus & singulis conquerentibus, tam diuitibus quàm pauperibus, in Curijs nostris plenam iustitiam exhibere. Teste meipso, Calendas Februarij, die dominica, in vigilia Purificat. &c.

This Writ I haue the rather chosen to set downe at large, because it contayneth a faire shew of a foule shift, I meane, his attaining to the Crowne, by the depriuation of his owne father.

But (for the present purpose) by this Writ it is manifestly declared, that the Peace which he meant, was not an vniting of mindes, but a restraining of handes: which is (in a maner) all one with that which Tullie writeth in his Oration *Pro Sestio*, where he setteth *Vis* and *Ius* one against the other: and it agreeth well with that description and diuision of *Vis*, which M. Bracton maketh *(lib. 4. ca. 4.)* saying: *Vis est, quotiens quis (quod sibi deberi putat) non per Iudicem reposcit: Est autem interdum armata, interdum inermis.* According to the which meaning also, the olde Statute of *Westminster* the first *(cap. 1.)* sayd: Let the peace of the land be maintained in all points: and common right bee done to all, as well poore, as rich: Thereupon likewise saith the Statute (1. R. 2. cap. 2.) Let the peace bee well and surely kept, that the kings subiects may safely go, come, & abide, according

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to the Lawe of the Realme: and that Iuſtice and right be indifferently miniſtred to euery Subiect.

Finally, the Statutes of 2.R.2.cap.4: 1.H.4.cap.1.and 7.H.4.cap.1. Doe all (in playne ſpeach) couple the maintenance of the Peace, with the purſuing of ſuites, as things that may right well ſtand together. And therefore, I conclude, that this furious geſture, and beaſtly force of body, or handes (and not euery contention, ſuite, and diſagreement of minds) is the proper ſubiect and matter, about which the Office of the Iuſtices of the Peace is to bee exerciſed.

Iuſtices of the Peace, be meete to pacifie ſuites.

Howbeit I write not this, as though I woulde not haue a Iuſtice of the Peace to occupie himſelfe alſo in pacifying the ſuites and controuerſies, that doe ariſe amongſt his neighbours: Yea, rather I wiſh him to bee as well εἰρηνοποιὸν, as εἰρηναρχὴν, a Compounder, as a Commiſſioner of the Peace: and I thinke him ſo much the meeter to ſteppe in betwixt thoſe that be at variance, as (by reaſon of his learning, wiſedome, authoritie, and wealth) hee is like to preuaile more, by his meditation and intreatie, then is an other man. But yet, as it is not all one, to ſpeake of his proper office in Lawe, and of his common duetie in Charitie: ſo I thought good (for learning ſake) to ſeuer and diſtinguiſh them, in this Treatie.

Of

Of ſuch as had the *Conſeruation* of the Peace at the Common Law.

CAP. III.

AS the Common lawe hath, euen from the beginning, continued a ſpeciall care for the Conſeruation of this Peace: So did it not want meete Officers, (before that theſe Wardeins or Iuſtices of the Peace were made) to whoſe charge it did commit the maintenance of the ſame: And foraſmuch as it will giue no ſmall light to the vnderſtanding of the office of the preſent Iuſtices of Peace, to haue that antient authority vnfolded, vpon the which this latter power is (as it were vpon a Stocke) ſet and engraffed, I will ſpeake ſomewhat thereof, before I begin with the other.

At the Common law therfore, and before the time of King Ed. the third, there were ſundry perſons, that had intereſt in the keeping of the Peace. Of thoſe ſome had that charge as incident to other Offices which they did beare, and ſo included within the ſame, that they were neuertheleſſe called by the names of their other Offices only: Some others had it ſimply, as of it ſelfe, and were thereof named *Cuſtodes pacis*, Wardens, or Conſeruators of the Peace. Conſeruators of the Peace.

Againe of theſe that had charge ouer the Peace, by the dignitie of their Offices, ſome had By other offices.

that

that power ouer all the Realme, and some others had it within certaine limittes onely: and both these sorts after a diuers maner of dispensation, as in particularitie it shall appeare.

The Queenes Maiestie then, is (by her Office and dignity royall) the principall Conseruator of the Peace within her Dominions, and may giue authoritie to others, to see the Peace kept, and to punish such as shall breake the same. But a Duke, Earle, or Baron, bee no Conseruators of the Peace: because those bee no titles of Office, but of dignitie onely, as sayeth Marrow.

The Lord Chauncellor (or Lord Keeper of the great Seale) the L. Steward of *England*, the L. Marshall and Constable of *England*, and euery Iustice of the Kings Bench, haue (closed in their offices) a credite for conseruation of the Peace ouer all the Realme, and may awarde Preceptes, and take Recognisances for the Peace. Mar. and Fitz. And (by good opinion.) the L. Treasorer of *England* may well bee added to the same number.

The Master of the Rolles also (by the iudgement of M. Mar.) is a generall Conseruator of the Peace by his office. But he maketh Processe and taketh Recognusances thereupon, not as incident to his office, but by prescription.

The Iustices of the Common place, and Barons of the Eschequer, be Conseruators within speciall

ſpeciall places onely: that is to ſay, within the precincts of their ſeuerall Courts: So alſo the Iuſtices of Aſſiſes may awarde a man to priſon that breaketh the Peace in their preſence, and they may commaund the keeping of the Peace vnder a paine, and that weapons be taken from the Iurors or Witneſſes, that appeare before them, if any complaint be thereupon made: But as they be merely Iuſtices of Aſſiſe, they can neither take Suertie of the Peace, nor award any Proceſſe for it, Mar.

The Iuſtices of Gaole deliuerie, may take ſuretie for the Peace of a priſoner before them, that was committed for not finding ſuertie of the Peace, Mar.

The Coroners (ſayeth Britton, Fol. 3.) bee principall Conſeruators of the Peace within their Counties: And euery Shirife is a Conſeruator of the Peace, within his County: as Iudge Fineux affirmed, 12. H. 7. 17. and after him M. Fitz. *Nat. Breu. Fo. 81.* where hee ſayth, that the Shirife may (vpon requeſt made, and without any Writ ſent vnto him) command a man to finde ſuch Suertie of the Peace by Recognuſance.

The Steward of the Marſhalſey, may take Suertie of the Peace, by Recognuſance alſo within the Vierge, by preſcription: and the Coneſtable Marſhall of the Queenes houſe, may ſee to the Conſeruation of the Peace within

within the same house. Mar.

The Stewarde of the Shirifes Turne, the Stewarde in a Leete, or the Stewarde in a Court of Pipowders, can not graunt Suertie of the Peace, vnlesse it be by Prescription. But euery of them, may commit him to Ward, that shall make any affray in their presence, whilest they bee in execution of their offices: which is more then the Steward and Suitors in a court Baron can doe, Marrow: but the first two of these, may also take presentment of any offence against the Peace.

To be short, euery Constable, Peticonstable, Tithingman, and Borowhead, bee Conseruators of the Peace by their offices, within the limits of their Hundreds, Townes, Tithings, and Boroughs. 12. H. 7. 17. Fineux. And by the same reason, our Borsholder in *Kent*, and their Thirdborow in *Warwickshire*, be Conseruatours also within their Boroughs. For Borowhead, Borsholder, and Tithingman, bee three seueral names of one selfe same thing, and do signifie, The chiefe man of the free pledges within that Borow, or Tithing. And where each third Borow onely hath a Constable, there the officers of the other two Borowes, bee called Thirdborowes.

These Constables were ordayned (as it appeareth. 3. H. 4. 9: & 10. H. 4. & Fitz. Fol. 172.) to keepe the Peace, and to repelle felons,

and

and might take ſuertie of the Peace (by obligation) if they found any man making an affray, or otherwiſe to commit him to priſon till hee ſhould finde ſuch Suertie.

I haue read alſo, that a Conſtable might at the common lawe, haue bailed a ſuſpect of felonie by Obligation, becauſe he was a Conſeruator of the Peace: and that both he and the Sherife loſt this authoritie by the Statutes (3. H. 7. cap. 3: & 1. & 2. Phi. & M. ca. 13.) The which, in giuing that power to Iuſtices of the Peace, do (in the opinion of ſome men) take it from the Sherife & Conſtable: reported by Daliſon Iuſtice.

Simple conſeruators.

Hitherto then, of ſuch as had, and yet haue the charge of the Peace conueyed vnder their other Offices. Nowe, as touching thoſe that had the ſimple Office of Wardeins (or Conſeruators) of the Peace, it is to be vnderſtood, that they alſo were of two diuers ſortes: that is to ſay, either Ordinarie, or Extraordinarie: and the Ordinarie Conſeruators, were either by Preſcription, Election, or Tenure.

Ordinarie.

By preſcription.

A man may preſcribe (ſaith M. Marrow) that he and his anceſtors, or he and they whoſe eſtate he hath in the Manor of Dale, haue bene Conſeruators within the Hundred of Sale, either all the yeare, or only at one certain time of the yeare: And as he may preſcribe in the power it ſelfe, ſo alſo may hee in the manner of the exerciſe of the ſame: as, that he & they haue vſed to take Suerty

of Peace by obligation, pledge, or Caution: and so also in the maner of the Processe therefore, as to Distreigne, and to sell the distresse: Mar.

But all this is to be doubted of, because that in the opinion of Brian and Pigot (21.E.4.67: & 22.E.4.35.) the Maior of Dale cannot prescribe to be a Conseruator, or to commaund Suertie of the peace, or to commit to prison for an affraie in his presence vntil such suertie be found.

Furthermore, euen as the Sherifes were anciently chosen, and as the Coroners yet be: So also certaine persons were wont to bee elected Conseruators of the Peace, in the full Countie before the Sherife: and of this kinde I my selfe haue seene certaine Records (*in Rotul. patent. de Anno* 5.E.1.) running in this course.

By Election.

First, a Writ to the Shirife of *Norfolke*, commanding him to choose in his full Countie, *vnum hominem de probioribus & potentioribus Commitatus sui, in custodem pacis.*

Then an other Writ directed *Ballinis & fidelibus* of the same Countie, giuing vnto them notice of the former Writ, to the end (as it seemeth) that the Bailifes should warne the men of the Countie, and that they should appeare at the Countie Court, to make the Election.

And lastly, to the Conseruator elected, this Writ following:

EDVVARDVS *Dei gratia Rex Angliæ, Dominus Hybernia, & dux Aquitaniæ, dilecto & fideli*

fideli ſuo, Iohanni le Bretun, Salutem: Cùm vicecomes noſter Norfolc. & communitas eiuſdem commitatus elegerit vos in Cuſtodem pacis noſtræ ibidem: vobis mandamus, quòd ad hoc diligenter intendatis, prout idem vicecomes vobis ſciri faciet ex parte noſtra, donec aliud inde præceperimus. In cuius rei, &c. Datum per manum venerabilis patris. F. Bathon & Wellen. Epiſcopi, Cancellarij noſtri, apud Ceſt. ſecundo die Septemb. Anno regni noſtri quinto.

By tenure.

Touching the Conſeruation of the Peace by Tenure of Land: M. Marrow putteth this caſe: If the King graunt vnto a man, lands to holde of him by Knights ſeruice, and to bee a Conſeruator of the Peace in a Countie, hee is a Conſeruator by Tenure: agreeably whereunto ſaith an Inquiſition, found at *Cheſter* (An. 4. E. 2.) after the death of one Vrianus de Sancto Petro (*inter alia*) thus:

Quòd idem Vrianus tenuit de Domino Rege in capite in dominico ſuo vt de feodo, die quo obijt. Medietatem Seriantiæ pacis, per ſeruitium inueniendi, decem ſeruientes pacis ad Cuſtodiam pacis in Ceſtr. pro qua quidem cuſtodia anteceſſores ſui percipere ſolebant xxx. ſolidos, per annum ad Scaccarium Ceſtr. pro Mantellis dictorum decem ſeruientum, &c.

Extraordinary Conſeruators.

These ſorts, and ſome others (which M. Marrow reciteth, and which I, wanting Recordes to warrant them, doe omit) I call Ordinarie

Conseruators of the Peace: because their authority was then Ordinary, alwaies one, and the same wel inough known: But the Extraordinary Conseruator, as hee was indowed with an higher power, so was he not ordinarily appoynted, but in the times of great troubles onely, much like as the Lieutenants of Shires are now in our dayes.

And he had the charge to defend the coasts and countrey, both from forrain & inward enemies, and might commaund the Shirife and all the Shire, to aide & assist him: as it may wel appeare by this Patent (remayning of Record in the Tower, *Rotul. Patent. de An. 49. H. 3.* made by that King, or rather in his name, by Simon the Earle of *Leicester*, whose prisoner he then was.

REX Johanni de Plessetis, salutem: Cùm nuper de consilio Magnatum qui sunt de consilio nostro, constituerimus vos custodem pacis nostræ in comitatu Northumb. ac vos tam laudabiliter & circumspecte in officio illo gesseritis, quòd probitatem ac diligentiam vestram meritò duximus recommendandam, & adhuc necesse sit (sicut intelleximus) quòd ad tuitionem partium illarum & conseruationem pacis nostræ, eidem officio intendatis: vobis (de consilio Magnatum prædictorũ) mandamus, firmiter iniungentes, quatenus omnem diligentiam (quam poteritis) adhibeatis ad pacem nostram conseruandam in partibus prædictis, in forma qua vobis alias iniunximus. Mandauimus enim

enim Vic: nostro Northumb. quòd quotiens opus fuerit, & à vobis fuerit requisitus, cum toto posse sui commitatus, vobis ad hoc assistat. Nolumus autem, quod pretextu huius mandati nostri, de aliquibus (quæ ad officium vic: pertinent) vos intromittatis, quo minus vic: de exitibus eiusdem commit, nobis plenè respondere valeat ad Scaccarium nostrum. Teste Rege, apud Westmonast. xi. die Februarij, Anno regni sui quadragesimo nono.

And sundry the like Patents were at the same time also made: as to Iohn de la Hay, to be Conseruator of *Kent*, and of the Sea coastes there: to Ralph Basset of *Drayton*, to bee Conseruator of *Staffordshire*: and so to others, for other Counties.

Of the first ordaining of the *Wardens* and *Iustices* of the *Peace*, by Statute Law.

CAP. IIII.

AFter such time as Queene Isabell (contending with her husband, King Edward the second) was returned ouer the Seas into *England*, accompanied with her sonne Prince Edward (called afterward the third King of that name) and with Sir Roger Mortimer, and such others of the English Nobilitie, as had for the indignation of the King, fled ouer the seas vnto her: She soone

after got into her hands the person of the olde King, partly by the assistance of the Henalders that she brought with her, and partly by the aide of such other her friends as she found ready here: and she immediatly caused him by forced patience to surrender his Crowne to the young Prince. And then also, forasmuch as it was (not without cause) feared, that some attempt would be made to rescue the imprisoned King: order was taken, that he should be conueied (secretly, and by night watches) from house to house, and from Castle to Castle, to the ende that his fauorers should be ignorant what was become of him. Yea, and then withall, it was ordained by Parliament, in the life time of that deposed King, and in the very first entrie of his sonnes raigne (1. E. 3. cap. 15.) That in euery Shire of the Realme, good men and lawfull (which were no mainteiners of euill, nor Barettours, in the Countrey) should be assigned, to keepe the peace: which was as much to say, that in euery Shire, the King himselfe should place speciall eies and watches ouer the common people, that should be both willing and wise to foresee, and be also enabled with meete authoritie to represse, all intention of vprore and force, euen in the first seede thereof, and before that it should grow vp to any offer of danger. So that, for this cause (as I thinke) the election of the simple Conseruators (or Wardeins) of the Peace, was

first

first taken from the people, and translated to the Assignement of the King.

And whether the authority and power of these Wardeins were then also with this alteration any thing increased, or no, I will not affirme: But I find (3. E. 3. *tit. Coron.* Fitzh. 360.) that an Enditement of murder was founde before one Wardein of the Peace onely, and that hee thereupon wrote his letter (or precept) to the Shirife, to apprehend the person endited, who tooke and brought him before the Iustices in Eire: and that they also thereupon proceeded to the arraignment and triall of him.

And the Statute (4. E. 3. cap. 2.) taketh order, that such as should bee indited, or taken by the Wardeins of the Peace, should not be bailed by the Shirife, or other Ministers, vnlesse they were Mainpernable by the Law.

Commissions, or assignments, for the Peace.

Howsoeuer that were, the same king vsed (as I thinke) for the first 33. yeares of his raigne, to make his assignments and commissions to the Wardeins of the Peace, not alwayes seuerally into each Shire, but sometimes iointly to sundry persons ouer sundry Shires: for so I finde a Commission (2. E. 3. *part.* 2. *patent in dorso*) made to William Roos & three others his companions, to be Wardeins of the Peace, not onely in *Lincolnshire*, but also in three, or foure, of the other Counties thereunto next adioyning.

This, though it might seeme to be warranted

after 18. E. 3.) vpon the Construction of the word Counties, vsed Plurally in the Statute, 18. E. 3. Stat. 2. cap. 2: yet was it much contrary to the meaning of the former lawes (made 1. E. 3. cap. 15: & 4. E. 3. cap. 2.) where the same word is read (Euerie Countie) in the singular number. And therefore the Parliament (34. E. 3. cap. 1.) restored the proper sense of those lawes, saying: In euerie Countie of *England* there shall be assigned for the safe keeping of the Peace, one Lorde, and with him, three or foure of the mightiest men in that Countie. And afterwards it addeth, They shall haue power to heare and determine (at the Kings suit) all maner of Felonies and Trespasses, done in the same Countie.

And hereof it commeth to passe, that euer sithens each Countie hath her proper Commissioners for the Peace, and that Counties haue not bene conioyned in Commission, as they were sometimes before. Hereunto also may that bee referred, which M. Fitzh. (Fol. 171.) hath, saying, That before the Statutes which ordayned Iustices of the Peace, the King vsed to make Conseruators of the Peace by his commission, in those Counties and places, where hee thought best, to keepe his Peace.

The first name of *Iustices* of the *Peace*.

But now, at what time these Wardeins of the Peace, were first named (and might truly be termed) Iustices of the Peace, it is not so euident, that

that I dare determine vpon it. For, on the one side I know, that M. Marrowe taketh it cleare, that they were made Iustices by the Statute 18. E. 3. Stat. 2. cap. 2: and on the other side I see, that they were not named Iustices in any Statute (that I haue found) within 17. yeeres after it.

There is a shew (I confesse) in that Statute (18. E. 3.) that they should be Iustices, because of their power to heare and determine felonies, which is mentioned there. But if it bee well weighed, it will appeare by the Statute it selfe, that the Wardeins of the Peace then were to haue one Commission by themselues for the keeping of the Peace: and that they and others (onely at times needefull) were to haue another Commission to heare and determine Felonies: So that, as they were meerly Commissioners for the Peace, they had none authoritie to determine felonies: and consequently could not (in regard thereof) be then worthily called Iustices.

And it is plaine (*in mine opinion*) that the generall power of determining felonies, was first giuen vnto the Wardeins of the Peace (as to themselues) by the Statute 34. E. 3. cap. 1. After which time also it is very true, that they were both commonly reputed, and called Iustices.

For within one or two yeres after that Statute, there is a Commission, which I haue seene

(in

(*in dorso patentium parte 2.*) that speaketh thus, *Assignauimus etiam vos, & trez vestrum, Iusticiarios nostros, &c.* and the Statute (36. E. 3. cap. 12.) taking order for the Quarter Sessions to be holden, as well by them, as by the Commissioners for Labourers, calleth them playnely, Iustices of the Peace.

By whose authoritie, and by what meanes, *Iustices* of the Peace be appoynted: and of what sortes they bee.

Cap. V.

FRom the King (who is the heade of Iustice) ought to flow all authoritie to the inferior and subalterne Iustices. And vpon this reason, it seemeth that the sayde Statutes (18. E. 3. cap. 2. and 34. E. 3. cap. 1.) did ordayne, that the Wardeins of the Peace in each Countie should bee assigned by the Kings Commission: to the ende that it might thereby appeare, that they receiued their whole authoritie and power, as it were by his owne hand or deliuery.

Howbeit afterward, partly through such as had *Iura regalia* within their Counties Palatine, and did thereby make Iustices of the Peace in their own names: and partly by the meanes of sundry Abbats and Religious persons, who (labou-

(labouring by all policie to increase their iurisdictions, and to shoale out themselues from the ordinarie gouernement) had obteyned graunts from the Kings of the Realme, that they themselues might make *Iustitiarios suos ad pacem conseruandam* within their owne liberties, this prerogatiue of making Iustices was in many places afterward seuered from the Crowne, to no small detriment of the royall estate and dignitie.

And therefore, although by the opinion of Iudge Fineux in the Abbat of Saint Albans case (20.H.7.8.) such a graunt was of no value in law, because it was of a Prerogatiue inseparablie annexed to the Crowne: yet King Henry the eyght thought it fit (by a generall resumption in Parliament of all such liberties) to restore vnto the Crowne her auncient right in this behalfe. Whereupon (27.H.8. ca. 24.) it was decreed, that no person whatsoeuer, shoulde haue any power to make Iustices of the Peace: but that they shoulde bee made by letters patents vnder the Kings great seale, in the name, & by the authority, of the king and his heires, Kings of the Realme, in all Shires, Counties Palatine, and other places within his dominions.

So that now againe, al Iustices of the Peace at this day (except the Archbishop of *Yorke*, and the Byshoppes of *Durham* and *Elie*, and their temporall

tempozall Chauncellours foz the time being, which are seuerally by that very Parliament authorised to be Iustices of the Peace within the libertie of *Hexham*, the Bishoprike of *Durham*, and the Ile of *Elie*: and except the Iustices of Peace, within the Countie Palatine of *Lancaster*, which also are by prouision in the same Statute to be made vnder the Kings vsuall seale of the same Duchie) all others I say, be ordained by the meane of the great Seale, and by the ministery of the L. Chauncellor, hauing the charge of the same: but yet so, that some of them be made by Letters Patents vpon special sute to the Queene, and by her bill assigned: and othersome by Commission of Common Course, that resteth in the dispensation of the L. Chancellor himselfe.

Two sortes of *Iustices* of the Peace.

By graunt.

They of the first sort, be of some called Iudicial Iustices, and Iustices of themselues: for that the Queene cannot discharge them at her will and pleasure, because they are to continue, and to enioy Iurisdiction, so farre forth as their Patent of grant doth enable them. Mar.

And therefore, if the Queene doe grant vnto a man to bee a Iustice of the Peace during his life within a certaine precinct, without any further words: he shall continue such a Iustice during his life: and shall haue all that power, that a Wardein or Conseruator of the Peace had: and perhaps such power also, as is giuen to a

Iustice

Iuſtice of the Peace by expreſſe wordes in any Statute: but hee ſhal not haue all that power, which is ordinarily giuen to the Commiſſioners of the Peace by their Commiſſion. Mar.

The Maiors, and other head officers, of many Cities and corporate Townes, be Iuſtices of this kind at this day, by grants of the Queene, and her progenitors.

By Commiſſion.

Thoſe other Iuſtices of the Peace, which deriue their power from the Commiſſion, bee called Commiſſioners of the Peace: and do differ from the other in this point ſpecially, that they be Iuſtices during onely the Queenes life, and (in her life) during onely her owne will, and pleaſure.

Commiſſioners of the Peace appointed by the *Lord Chancellor.*

Theſe (as I ſayd) be now at this day appointed by the diſcretion of the Lord Chauncellor: but whether the King himſelfe did at the firſt nominate them (as hee did thoſe which were made by Graunt) or elſe did leaue the choice of them to the Lord Chancellor alone, or to him and others, it hath ſome ſhew of queſtion.

It is true, that in the Parliament holden at *Canterbury* 12.R.2. cap.2. (which happened ſhortly after that Michael de la Pole was remooued from that place, and after the troubleſome Parliament of the eleuenth yeere of that kings raigne) It was enacted, that the Chauncellor, Treaſorer, and keeper of the priuie Seale, the Stewarde of the kings houſe, the kings

kings Chamberlaine, Clearke of the Rolles (nowe called Maſter of the Rolles) the Iuſtices of both Benches, the Barons of the Eſchequer, and others that ſhould bee called to the naming of the Iuſtices of the Peace, Shiriffes, Eſcheators, Cuſtomers, Controllers, and other Officers, ſhould bee ſworne to doe the ſame faithfully, and without affection. But, whether the meaning of that Statute were, that they all ſhould bee continually preſent together at the nomination of all ſuch officers: and whether that Statute were made but for that buſie time onely, it may well be doubted. For againe, vpon fault found (as it ſhoulde ſeeme) that the Commiſſioners of the Peace were made of perſons inſufficient, & dwelling in fortene Counties, it was enacted (2.H.5.Parlia.2.cap.1.) that from thenceforth they ſhould be aſſigned by the aduiſe of the Chancellor and of the kings Counſel: which words may be taken to ſound, as though they had beene named before by the Lord Chauncellor alone: and yet, may they alſo indifferently be extended, eyther to appoyne the aduiſe of the kings counſell to the Chauncellor, or the aduiſe of them both vnto the king himſelfe.

This is out of all doubt, that 18.H.6.ca.11. did take order, that (vpon knowledge giuen to the Chauncellour of England, by any appoynted to be a Iuſtice of Peace, that hee had

not

not landes to the value of twentie pound by yeere) the Chauncellor himſelfe ſhoulde put an other ſufficient in his place. And for want of ſufficient men, hauing landes of that value, learned in the Lawe, and of good gouernance, that the Chauncellor of England, for the time being, ſhould haue power, by his diſcretion to put into the Commiſſion other diſcreete perſons learned in the Lawe, though they had not landes to that value. And albeit this credite were here giuen vnto him in theſe particular caſes onely, yet may it well bee thought, that hee had beene before, and ſhoulde be afterward, truſted with the choyce of all the Commiſſioners of the Peace generally: the rather alſo, for this preſumption gathered vpon the Statute (3.E.6.cap.1.) which mentioneth, that the nomination of the *Cuſtos Rotulorum* (being a verie ſpecial Iuſtice of the Peace) had of long time before belonged to the Office of the Chauncellor: vntill that (vpon ſiniſter occaſion) it was taken from him by the Statute of 37.Hen.8.cap.1. whereof you ſhal read more in the fourth Booke of this treatiſe.

What

What maner of men, the *Commissioners* of the Peace ought to be.

Cap. vi.

In the choice of the Wardeins and Iustices of the Peace, the Statute lawes haue respect to the maners, and abilitie (or liuelihood) of them all: and to the skill and learning of such, as are specially selected, and therefore named of the *Quorum*. For, Gardeins of the Peace ought to be good men and lawfull: no mainteiners of euill: nor Barretours in the Countrey: or (as some Bookes haue it) no maintainers of euill Barretours in the Countrey. 1. Ed. 3. cap. 15. Men of the best reputation (*Meultz vaillantz*) most substantial (or of most valour) shall be assigned keepers of the Peace. 18. E. 3. cap. 2. & 17. R. 2. cap. 9. In euery Countie, for safegard of the Peace shall bee assigned one Lorde, and with him three or foure of the (*Mieultes vanees*) most valiant men of the Countie, together with some Sages of the Lawes. 34. E. 3. cap. 1.

And, after some troubles in the time of K. Richard 2. it was enacted, that none shall bee made Iustice of the Peace, for any gift, brocage, fauour, or affection: nor any which sueth by himselfe or any other, priuilie, or openly, to be a Iustice of the Peace, shall be admitted

to

to that office. 12.R.2.cap.2. And of ſome ſpecial pollicie it was then alſo prouided, (cap 10. of the ſame Parliament) that no Steward of any Lord ſhould be aſſigned in the Commiſſion of the Peace. Howbeit in the Parliament of the next yeere (cap.7.) it was ordered, that (notwithſtãding that clauſe of the former Statute) Iuſtices of the Peace ſhoulde then bee made of new in all places, of the moſt ſufficient Knights, Eſquires, and men of Law.

Againe, Iuſtices of the Peace (eſpecially thoſe of the Quorum) from henceforth ſhall be made of the moſt ſufficient perſons, dwelling in the Countie (without taking any others dwelling in forraine Counties) except the Lords, Iuſtices of both Benches, Iuſtices of Aſſiſe, the chiefe Baron, the chiefe Stewards of the Duchie of *Lancaſter*, the Serieants, & the Kings Attourney. 2.H.5.Parl.2.cap.1.

Laſtly, for that (contrary to thoſe former Statutes) men of ſmall ſubſtance haue crept into the Commiſſion, whoſe pouertie made them both couetous and contemptible: a new Lawe was publiſhed, to this effect following:

None ſhal be aſſigned Iuſtice of the Peace, if he haue not lands or tenements to the value of twentie poundes by the yeere: And if any be otherwiſe appointed, he ſhall within a moneth after notice of the Commiſſion (and vnder the paine of twentie pounds, and to be

put out of the Commission) giue knowledge of his not hauing such lands or tenements, to the Lord Chauncellor, who shall put another person sufficient in his place. And the like paine is, if he sit or make Warrant or any Precept, by force of the Commission. But this, extendeth not to cities, boroughs, or townes that be Counties of themselues, or that haue Iustices of Peace (dwelling in them) by Commission or grant of the King: Nor to such Counties, where there bee not men sufficient (hauing landes or tenementes to the value aforesaid) learned in the Lawe, and of good gouernance: for then, other discret persons (learned in the Law) may by the Lord Chauncellor be put in the Commission. 18. H. 6. cap. 11.

Now although this portion of twenty pounds by yeere, be not at this day in account answerable to the charge and countenance of a fit Iustice of the Peace: yet who knoweth not, that at the making of this Lawe, it was farre otherwise? And therefore, I doe not doubt, but as the rate of all things is greatly growen since that time, so also there is good care taken, that none bee now placed in the Commission, whose Liuings bee not answerable to the same proportion.

Thus then, our Parliamentes (entending to make the Iustice of Peace an able Iudge) doe require, that hee come furnished with three of the principall ornaments of a Iudge: that is

to

to say, with Iustice, Wisedome, and Fortitude, for to that summe the wordes, Good, Learned, Valiant, do fully amount. And vnder the word Good, it is meant also that hee loue and feare God aright, without the which hee cannot be Good at all.

How many *Commissioners* of the Peace there ought to be in each *Countie*.

Cap. VII.

THe number of the Wardeins of the peace was not limited, vntil that the Statute (18. E. 3. cap. 2.) ordained, that there shoulde bee two or three in each County: And because it was found, within a few yeres experience, that this number sufficed not for the gouernance of the Countrie, therfore by an Act (made 34. E. 3. cap. 1.) it was further prouided, that in euery Shire, one Lord, and with him three (or foure) of the Best in the County, and some learned in the Lawes, should be assigned for keeping of the Peace, and to restraine offendors.

In execution of which Statute, there was (amongst many other) which I haue seene, one Commission for *Kent*, awarded (35. E. 3) to these eyght persons, Robert Herle, Iohn Cobham, Roger Northwood, Ralph Freningham,

Thomas Lodelow, Robert Vintar, Iohn Barry, and Thomas Hartrege.

But, as it falleth out many times, that euill examples doe follow of good lawes: So, here it came to passe, that whilest the Parliament prouided an increase of Officers to restraine offendors, ambition so multiplied the number of those Iustices, that it was afterwarde high time to make a contrary law to diminish them. And therefore by the Statutes (12.R. 2. cap. 10. and 14.R.2.cap.11.) it was prohibited, that there should be any moe then sixe Iustices of the Peace in any Commission, besides the two Iustices of Assise, and certaine Lords that were assigned in the Parliament it selfe. And, for the better restraint of the increase of them in time to come, it was also then further enacted, that no Association shoulde bee made to the Iustices of Peace, after their first Commission, 12.R.2. cap.10. Which law, although it be not abrogated till this day, yet was it long since eluded, by making of newe Commissions, that had more new Iustices thrust into them.

Very many Iustices of Peace at this day.

And (truely) it seemeth to me, that (together with the like ambitious desire of bearing rule in some) the growing number of the Statute lawes, committed from time to time to the charge of the Iustices of the peace, hath bene the cause that they also are now againe increased to the ouerflowing of each Shire at this day.

For,

For, if Hussey (the chiefe Iustice 1.H.7.3.) did thinke that it was inough to load al the Iustices of the Peace of those dayes, with the execution, only of the Statutes of *Winchester* and *Westminster*, for Robberies and Felonies: the Statute of Forcible entries: the Statutes of Laborers, Vagabonds, Liueries, Maintenance, Embracerie, and Shirifes: Then, how many Iustices (thinke you) may now suffice (without breaking their backes) to beare so many, not Loades, but Stackes of Statutes, that haue since that time bene laid vpon them?

Iustices of Peace be ouerladen with Statutes.

To dispute, whether it be now better to haue many, or fewe Iustices of the Peace, in each Shire, is a noble question, and woorthie of a higher consideration: and therefore it becommeth not me to enter into it.

The *Forme* of the late reformed *Commission* of the Peace.

CAP. VIII.

COnsidering that al the authoritie and power of these Commissioners of the Peace, floweth out of their Commission, and out of the Statutes (as it were from two principall Heades, or Fountaynes) the place nowe requireth, first, that we vnfold the Commission it selfe, and consider what is contayned therein: then afterwardes,

that wee peruse the Statutes also, as they arise and shew themselues.

The Salutation.

ELIZABETH, *Dei gratia Angliæ, Franciæ, & Hyberniæ Regina, fidei defensor, &c. Prædilecto & fideli, Ioanni Cantuar. Archiepiscopo, &c. Necnon prædilectis*

Domino Cancellario, Willihelmo Domino Burghley, Thesaurario, &c. salutem.

The power of the Iustices. The 1. Clause.

SCIATIS, *quòd assignauimus vos, coniunctim & diuisim, & quemlibet vestrum, Iusticiarios nostros, ad pacem nostram in comitatu nostro Kanciæ conseruandam: Ac ad omnia Ordinationes & statuta, pro bono pacis nostræ, ac pro conseruatione eiusdem, & pro queto Regimine & gubernatione populi nostri edita, in omnibus & singulis suis Articulis, in dicto comitatu nostro (tam infra libertates, quàm extra) iuxta vim, formam, & effectum eorundem, custodiendum & custodiri faciendum: Et ad omnes contra formam Ordinationum, vel Statutorum illorum, aut eorum alicuius in comitatu prædicto delinquentes, castigandum & puniendum, prout secundum formam Ordinationum & Statutorum illorum fuerit faciendum: & ad omnes illos, qui alicui, vel aliquibus de populo nostro, de corporibus suis, vel de incendio domorum suarum, minas fecerint, ad sufficientem securitatem de pace, vel bono gestu suo, erga nos, & populum nostrum inueniendam, coram vobis, seu aliquo vestrum, venire faciendum: & (si huiusmodi*

iuſmodi ſecuritatem inuenire recuſauerint) tunc eos in priſonis noſtris (quouſq; huiuſmodi ſecuritatem inuenerint) ſaluo cuſtodiri faciendum.

The 2. Clauſe.

Aſſignauimus etiam vos & quoſlibet duos, vel plures veſtrum (Quorum aliquem veſtrum A.B. C.E.F. &c. vnum eſſe volumus) Iuſticiarios noſtros, ad inquirendum per Sacramentum proborum & legalium hominum de comitatu predicto (per quos rei veritas melius ſciri poterit) de omnibus, & omnimodis felonijs, veneficijs, incantationibus, ſortilegijs, arte magica, tranſgreſſionibus, forſtallarijs, regratarijs, Ingroſſarijs, & Extorcionibus quibuſcunq; : Ac de omnibus & ſingulis alijs malefactis & offenſis (de quibus Iuſticiarij pacis noſtræ legitime inquirere poſſunt, aut debent) per quoſcunq;, & qualitercunq; in comitatu predicto factis, ſiue perpetratis, vel quæ imposterum ibidem fieri, vel attemptari contigerit: Ac etiam de omnibus illis qui in comitatu predicto in conuenticulis contra pacem noſtram in perturbationem populi noſtri, ſeu vi armata ierunt, vel equitauerunt, ſeu imposterum ire, vel equitare præſumpſerint: Ac etiam de omnibus hijs qui ibidem ad gentem noſtram mayhemandam, vel interficiendam in inſidijs iacuerunt, vel imposterum iacêre præſumpſerint: Ac etiam de hoſtellarijs, & alijs omnibus & ſingulis perſonis, qui in abuſu ponderum, vel menſurarum, ſiue in venditione victualium, contra formam Ordinationum, vel Statutorum, vel eorum alicuius, inde

pro communi vtilitate regni nostri Angliæ, & populi nostri eiusdem editorum, deliquerunt, vel attemptauerunt, seu imposterum delinquere, vel attemptare præsumpserint in comitatu prædicto: Ac etiam de quibuscunq; vicecomitibus, Balliuis Seneschallis, Constabularijs, Custodibus Gaolarum, & alijs officiarijs, qui in executione officiorum suorum (circa præmissa, seu eorum aliqua) indebitè se habuerunt, aut imposterum indebitè se habere præsumpserint, aut tepidi, remissi, vel negligentes fuerunt, aut imposterum fore contigerit in comitatu prædicto: Et de omnibus & singulis articulis & circumstantijs, & alijs rebus quibuscunq; per quoscunq;, & qualitercunq; in comitatu prædicto factis, siue perpetratis, vel quæ imposterum ibidem fieri, vel attemptari contigerit, qualitercunq; præmissorum, vel eorum alicuius, concernentibus plenius veritatem. Et ad Indictamenta quæcunq; sic coram vobis, seu aliquibus vestrũ, capta, siue capienda, aut corã aliis nuper Iusticiarijs pacis in comitatu prædicto facta, siue capta (& nondum terminata) inspiciendum, ac ad processus inde versus omnes & singulos sic indictatos, vel quos coram vobis imposterum indictari cõtigerit (quousq; capiantur, reddant se, vel vtlagentur) faciendum, & continuandum. Et ad omnia & singula felonias, veneficia, incãtationes, sortilegia, artes Magicas, transgressiones, forstallarias, regratarias, ingrossarias, extorsiones, cõuẽticula, indictamenta prædicta, cæteraq; omnia &

singula

singula præmissa, secundum leges & statuta regni nostri Angliæ (prout in huiusmodi casu fieri consueuit aut debuit) Audiendum, & Terminandum: Et ad eosdem delinquentes, & quemlibet eorum, pro delictis suis, per fines, redemptiones, amerciamenta, forisfacturas, ac alio modo (prout secundum legem, & cõsuetudinem regni nostri Angliæ, aut formam Ordinationum, vel statutorum prædictorum, fieri consueuit, aut debuit) castigandum, & puniendum.

Proviso semper, quod si casus difficultatis super determinatione aliquorum præmissorum coram vobis, vel aliquibus duobus, vel pluribus vestrum euenire contigerit: Tunc ad Iudicium inde reddendum (nisi in præsentia vnius Iusticiariorum nostrorum, de vno, vel de altero Banco, aut vnius Iusticiariorum nostrorum ad Assisas in comitatu prædicto capiendas assignatorum) coram vobis, vel aliquibus duobus, vel pluribus vestrum, minimè procedatur. Exceptions or restraint.

Et ideò vobis, & cuilibet vestrum mandamus, quod circa custodiam pacis, ordinationum, statutorum, & omnium & singulorum cæterorum præmissorum, diligenter intendatis: Et ad certos dies, & loca, quæ vos, vel aliqui huiusmodi duo, vel plures vestrum (vt prædictũ est) ad hoc prouideritis, super præmissis faciatis Inquisitiones, & præmissa omnia & singula audiatis & Terminetis, ac ea faciatis, & expleatis in forma prædicta, facturi inde quod ad Iustitiã pertinet secundum legẽ, & consuetudinẽ regni The charge to the Iustices.

regni nostri Angliæ: Saluis nobis amerciamentis, & aliis ad nos inde spectantibus.

To the Sheriffe.

Mandamus enim tenore præsentium vicecomiti nostro Kanciæ, quod ad certos dies & loca (quæ vos, vel aliqui huiusmodi duo, vel plures vestrum vt prædictum est, ei vt prædictum est scire feceritis) venire faciat coram vobis vel huiusmodi duobus, vel pluribus vestrum (vt dictum est) tot & tales probos & legales homines de Ballina sua (tam infra libertates, quàm extra) per quos rei veritas in præmissis melius sciri poterit & inquiri.

To the *Custos Rotulorum.*

Assignauimus denique te præfatum Edw. Hoby Militem, custodem Rotulorum pacis nostræ in dicto comitatu nostro: Ac propterea tu, ad dies & loca prædicta, Brevia, Præcepta, Processus, & Indictamenta prædicta, coram te, & dictis socijs tuis, venire facias, vt ea inspiciantur, & debito fine Terminentur, sicut prædictum est. In cuius rei testimonium, &c. Datum vicesimo die Nouembris, Anno regni nostri tricesimo quarto.

An Ex-

An *Explication* of sundrie partes of the saide *Commission* of the *Peace.*

Cap. ix.

Before that I enter into the opening of the Capitall pointes of this present reformation, it shall not be out of the Readers way, to leade him along by the olde Commission: and to shew vnto him, both what it was at the first, how many accessions it receiued in processe of time, and how being of late yeeres vnregarded, it was so fallen into corruption, that of necessitie it ought to be redressed.

It is the agreeing opinion of all the Iudges (2.R.3.9.) that Iustices of the Peace had none other power (at the first) but onely *ad pacem Regis conseruandam*. And that the same is most true, you may well perceiue by that Statute (1.E.3.cap.15.) which first created these Iustices, and gaue vnto them the onely power, to keepe the peace. But the very next yeare after, the forme of their Commission was enlarged, so as they had the Statute of Winton in charge, and were both enabled to enquire of Felonies, and trespasses, and warranted also to arrest Felons that were indited. For so was the Commission to William Roos, & others, wherof I haue spoken before.

After

After this, in the twentieth yeere of the same King E. the third, the Statute of *Northampton*, (which was made 2. E. 3. cap. 3.) was inserted to their Commission: & together with it a direction to certifie into the Chauncery the names of such as (being indited) did flie and did refuse to be Justiced: because at that time they had no power (as it seemeth) to award any processe at all: 20. E. 3. *part. 1. patent. in dorso.*

In which same 20. yeere (*part. 2. patent. membrana 7. in dorso*) you shal finde a Commission of the peace directed afterwarde, *Roberto de Scardeburgh, Adæ de Somere &c. ad custodiendum pacem nostram & Statutum de Wynton, Statutum apud Northamton & Statutum apud Westm. anno 5. regni nostri editum, si suspitio mali versus aliquos habeatur, &c.* Which Statute of *Westm.* lieth in the 14. chapter of that 5. yeare of King E. 3. and was made against Robertsmen, drawlatches, &c. and was at that time first mentioned in the Commission of the Peace.

Againe, as it is euident, that the Statute (34. E. 3. ca. 1.) was the first, that gaue authority to these Iustices to heare and determine of Trespasses and Felonies: So is there a forme of a Commission to be seen (35. E. 3. *par. 2. paten. in dorso*) which was awarded to Robert Herle, Iohn Cobham, Ioh. Barry & others for *Kent*, in which their power in Felonies and Trespasses, was accordingly enlarged: with a further addi-

tion

tion alſo touching weights and meaſures, Seruants, artificers, & Labourers: and therin alſo is the firſt clauſe (that I haue ſeene) for taking the Suertie of the Peace and good abearing.

Thus ſtood the forme of the Commiſsion of the peace (ſo farre as I haue perceiued) vntil the time of King Richard the 2. In the 13. yeare of whoſe reigne (as you may reade *parte 1. patent. membrana 25.*) there was a Commiſsion dated the 15. of Iuly, whereby theſe Iuſtices were commanded to enquire of Cappes and Liueries, forſtallings, and regrataries, and of extortions committed by Victuallers, Hoſtlers, Labourers, Artificers, and ſeruants.

In the next yeare of the ſame King R. the ſecond, the execution both of the Statute made at *Cambridge* (12. R. 2. cap. 7. 8. & 10.) concerning Labourers, and of the Statute made at *Weſtm.* (13. R. 2. cap. 13.) againſt Hunters, was recommended to the Iuſtices of the Peace, in their Commiſsion.

At which time alſo, the clauſe concerning Sherifes, Maiors and Bailifes, was firſt brought into the Commiſsion of the peace: & Stephen Betenam was then the firſt for *Kent*, to whome the credit of the Records of the Peace was thereby committed: which officer is now ſithens called the *Cuſtos Rotulorum:* all which matters you may finde in the Records, *28. Iunij, ann. 14. R. 2. parte 1. patent. membrana 35.*

Further-

Furthermore, after all this (but in what verie yeeres I certeinly know not) first the Statutes of Liueries (made 1.H.4.cap.7.& 2.H.4. cap.21.). Then the Statute (made 2.H.5.ca. 7.against Lollardes: and lastly, the Statute made 3.H.5.cap.6.& 7.) against Counterfeting, clipping and washing of money, were all thrust into the Commission.

And in this plight (that part of the Lollards onely excepted) stoode the Commission of the Peace, till it was euen nowe of late: Notwithstanding, that it was both surcharged with vaine recitall, and often repetitions of some of these Statutes that were a good while before repealed: and also fowlly blemished with sundry other corruptions that had crept into it, partly by the miswriting of Clearks, and partly by the vntoward huddeling of things together, which were at strife the one with the other of them.

Which imperfections being made knowen to the Reuerend Iudge Sir Christopher Wray the Lord chiefe Iustice of the Kings Bench, hee communicated the same with the other Iudges and Barons of the Coyfe, so as by a generall conference had amongst them, the Commission was carefully refined in the Michaelmas Terme 1590. and being then also presented to the Lorde Chancelour, as a meete paterne of a Commission of the Peace to be vniformly put in vre, throughout the Realme, he forthwith both

both accordingly accepted thereof, and commanded the same to be Sealed and sent abroade.

How many amendements it receiued heereby, and vpon what speciall reasons, I will not nowe repeate, since I did soone after publish the same in a Conference made of that olde and of this newe Commission.

Thus much therefore premised, let vs goe in hand with the Commission as it nowe standeth before you.

Forasmuch as in the late reformation of this Commission, care was taken, that the drosse matter of the former Commission being tryed out (by the fire of learning and discretion) the body and countenance thereof should (as much as might bee) remaine, and be let to stande: it commeth to passe, that the chiefe partes hereof be yet the very same that they were before, and are comprehended within these fewe Termes following.

The { 1 Salutation of the Queene. 2 Power of these Iustices. 3 Charge giuen to them and to others.

The 3. partes of the Commission.

The Salutation of the Queene is but a Catalogue of al the names of the Iustices, and containeth nothing that hath neede of light.

Next followeth the power of the Iustices, contained in two seuerall Clauses, whereof the former beginneth thus: *Sciatis quòd assignauimus vos, coniunctim & diuisim, & quemlibet vestrum,*

vestrum, Iusticiarios nostros, ad pacem nostram, &c.

The latter beginneth at the ende of the former, thus: *Assignauimus etiam vos, & quoslibet duos, vel plures vestrum (Quorum aliquem vestrum, &c. vnum esse volumus) Iusticiarios nostros, ad Inquirendum, &c.*

The 1. clause. Both *Conservators* and *Iustices:* for the *Peace*, and the *Statutes.*

This first Clause (or *Assignauimus*) maketh them Iustices for the conseruation of her Maiesties Peace: by force of which words, they haue singularly, dually, and plurally, both all that auncient power touching the Peace, which the Conseruators of the Peace had by the common Law: and also that whole authoritie which the Statutes haue sithens added thereunto. For the more euident declaration whereof, they are immediatly after assigned to conserue *Omnia ordinationes & statuta pro bono pacis, &c.* in which generall wordes there doe lie emplied, not onely the seuerall Statutes of Westminster 1. cap. 9. 13. E. 1. cap. & 28. E. 3. cap. 11. for Huie and Crie after Felons: and that of Westminster (5. E. 3. cap. 14.) against Night-walkers, that bee suspected: but also whatsoeuer other lawes and statutes made, either for the arresting of Robbers, Murderers, Felons, and of those that be suspected to bee such: Or for the repressing of Riots, Affraies, Force, and violence, all which be directly against the Peace, as al men doe know: or for the hauing of Armour and weapon, which tende

tend principally to the keeping of the Peace; as the Statute of Winchester it selfe doeth acknowledge.

And therefore, there is no more necessitie to recite any of them by name in the Commission, then to make tedious rehearsall of all those other statutes, which (giuing expresse authority to the Iustices of the Peace) doe containe a sufficient Warrant and ample Commission within themselues.

But, euen as the conseruation of the Peace, and the execution of these statutes bee seuerall things: So is there in this first Branch (or Clause) two distinct wayes (or meanes) for the effecting of the same. For, the Statutes are to be perfourmed according to such prescript and order, as themselues doe deliuer: wherein if no power at all be expressly giuen to any one Iustice of the Peace alone, then can he not otherwise compell the obseruation therof, (so farre as I can learne) then by Admonition only, and calling vpon the parties: in which behalfe, if he shal not be obeyed accordingly, he is to preferre the cause at the Sessions, and to worke it to a presentment vpon the Statute, and so (by the helpe of his fellow Iustices) to heare and determine thereof, as lawe requireth. But, for preuention of the breach of the Peace, he hath ful authoritie hereby, not onely to call the partie for the finding of Suerties for the Peace, or for the good behauior, as the case

Two meanes to conserue.

Statutes.

Suertie of the Peace.

shall require, but also (for not finding such Sureties) to commit him to safe custodie within her Maiesties gaole or prison.

Lastly, for the closing vp of this first clause, it is to be remembred, that all this authoritie is to be exercised, *In Comitatu prædicto, tam infra libertates, quàm extra*, in the sayd Countie, as well within the liberties, as without. But yet so, as the distinction of Liberties be not neglected. For, as in many other Shires, so in Kent also, there be some Cities or Townes that be Counties of themselues, hauing their proper Iustices within them: And some others there be, which hauing their proper Iustices, bee not yet any Counties of themselues at all, though happily they haue in their Charter speciall words of prohibition, that the Iustices of the Shire at large, *Non se intromittant, &c.* of that former sort is the Citie of Canterbury with vs, and of this latter sort is the Citie of Rochester.

Liberties.

Whereupon it followeth, that a Iustice of the Peace in Kent, of the Shire at large, hath no more authority by this Commission, within the liberties of the City of Canterbury, then he hath within the Shire of Sussex: because that Citie is not *In Comitatu Kanciæ*, but it is a distinct Countie from it, euen as Sussex is.

Howbeit, some think that there is not the same but an other maner of impedimēt for a Iustice of the Shire at large, to doe the partes of his office within

within the Citie of Rochester: because that is no Countie of it selfe, but is *in Comitatu Kancie*, as other common Townesare. Only there is a restraint in the Charter of that Citie, that such a forrain Iustice shal not intermeddle there within that libertie: the which if hee shall (notwithstanding such inhibition) attempt to doe, hee trangresseth not the boundes of his owne Commission thereby, but breaketh into their liberties against that Prohibition: and consequently it seemed to some (20.H.7.6.) that his acte is not meerely voyde of all authoritie (because it is the seruice of the Queene, which alwayes carieth *Non omittas propter aliquam libertatem*, in it) but he himselfe is subiect to such punishment, as belongeth to that his temeritie, and vndiscreet action.

The latter Clause (or *Assignauimus*) of the Commission, comprehendeth the power giuen to these Iustices, as well for to enquire of all those offences that bee contained therein, as to proceed, heare and determine thereof, vpon any former (or future) enditements: So alwayes, that two of these Iustices at the least bee present thereat, and so that the one of those two be of that select number, which is commonly termed of the *Quorum*. For these of the *Quorum* were woont (and that not without iust cause) to bee chosen, specially for their knowledge in the Lawes of the land: and that was it which led

The 2. clause.

Enquire, proceed, heare, and determine.

The *Quorum*.

the makers of the Statutes (18.E.3.cap.2: 34. E.3.cap.1: & 13.R.2.cap.7.) expressly to enact, that some learned in the lawes should be put into the Commission of the Peace: and (to say the truth) al Statutes, that desire the presence of the *Quorum*, do secretly signifie such a learned man.

For, albeit that a discrete person (not conuersant in the studie of the lawes) may sufficiently follow sundry particular directions concerning this seruice of the Peace: yet when the proceeding must be by way of presentment vpon the euidence of witnesses and othes of Iurors, and by the order of hearing and determining according to the streight rule and course of the Lawe, it must be confessed, that learning in the lawes is so necessary a light, as without the which all the labour is but groping in the dark, the end wherof must needs be error, and dangerous falling.

The Branch for punishment.

This clause giueth speciall authoritie also, both for the punishment of offenders, and for the correction of such officers as shall bee founde remisse: the which was suffred to remain, not as of any necessity at all (seeing that the punishment of all offenders is implied in the word determining, and considering that it is incident to euery court of Record, to doe correction vpon whatsoeuer officers and ministers that doe serue them) but onely for the plainer declaration of the power of these Iustices in that behalfe, and for the more assured terrifying of such as shall (either of contempt,

contempt, or negligence) doe that which is amiſſe.

And heere, leaſt theſe Iuſtices ſhoulde rather grounde their iudgements vpon the number of voices, then vpon the weight of reaſons, this latter clauſe is ſhut vp with a prouiſion and reſtraint, that in al caſes of ambiguitie and doubt, they ſhall ſpare to proceede to iudgement, & ſhal expect the preſence, either of ſome one of the Iudges of the Kings Bench, or of the Common place, or (at the leaſt) of the one of the Iuſtices of Aſſiſe in that County, which be their more neare and readie Oracle. And yet (as M. Fitch, fol. 7. well noteth) is not their iudgement voyde, if they luſt to proceed without ſuch aduice: but it ſtandeth good and effectuall, vntill it ſhall be reuerſed by a writ of Error. Reſtraint in matters of doubt.

The power of theſe Iuſtices hath thus appeared; now therefore let vs heare the commandement and charge that is giuen to them, and the others. The charge to the *Iuſtices.*

Firſt, theſe Iuſtices, and euery of them, bee charged to be diligently intendant about the execution of al and ſingular the premiſſes, by theſe words, *Et ideo vobis, & cuilibet veſtrum, mandamus, &c.* in the end wherof, there lieth a plain Sauing to the Queene, of al ſuch amerciaments and other things, as ſhal grow due vnto her by their ſeruice in this Commiſſion: of which point I will ſay more, in place more conuenient for it.

To the *Sherife.*

Then is the Sherife of the Countie commanded to be attendant vpon these Iustices for the returne of Iuries to bee made before them, by these words, *Mandamus enim tenore præsentium vicecomiti nostro Kanciæ, &c.* And lastly, the *Custos Rotulorum* (being one of these Iustices) hath moreouer a speciall charge by himselfe, in right of this Office, to produce the Records of the peace, to the end that they may be both perused, directed, and proceeded vpon: all which matter lieth in the words, *Assignauimus denique te præfatum Edw. Hoby militem, Custodem Rotulorum pacis nostræ, &c.*

To the *Custos Rotulorum.*

Of whose office and authoritie more shalbe said in particular, when wee come to the fourth booke of this volume.

Of the two *oathes*, ministred to the *Iustices* of the peace.

Cap. x.

The causes why Iustices be sworne.

Such as doe occupie Iudiciall places, ought to take heede what they doe: knowing (as Iehosaphat saide) that they exercise not the iudgementes of Men onely, but of God himselfe: whose power as they do participate, so he also is present on the Bench with them. And therfore, it hath bene alwayes the policie of christian Lawes, to appoint meet formes of religious attestations (or Oaths) for

for ſuch Officers to take and conceiue: meaning thereby, not only to ſet God continually before their eies (whom by ſuch Oath, they take to witneſſe of their promiſe, and call for reuenge of their falſhood) but alſo to threaten them (as it were) with temporall paines prouided againſt corrupt dealings: and withal to ſtrengthen their mindes, and arme their courages, againſt the force of humane affections, which otherwiſe might allure and draw them out of the way.

Upon this grounde, the Statute (13.R.2. Stat.1.c.7.) which willed, that Iuſtices of the Peace ſhould be made of newe in all the Counties of *England*, did therewithal take order, that they ſhould be ſworne, to keepe, and put in execution, all the Statutes touching their office: which, albeit that it be the firſt Oath that I finde to haue bene miniſtred to Iuſtices of the Peace, yet I think they were neither vnſworne before, nor at any time after, as may bee collected vpon the bookes 21.E.4.67: & 12.E.4.18: I beleeue alſo, that the ſame maner of Oath was deuiſed but for that time onely, and continued not long in that forme, as being of it ſelfe very generall, and hard to be obſerued. And that (happily) was the cauſe, that it was afterward changed to that forme, which M. Fitz. in his Booke hath left vs, and which (with the alteration of a few words onely) is yet at this day kept in vſe.

For, vpon the renuing of the Commiſſion

of the Peace (which now a dayes happeneth as often as any person is newly brought into the same) there commeth of course a Writ of *Dedimus potestatem*, directed out of the Chancerie to some auncient Iustice of the Peace, to take the Oath of him whose name is newly inserted, and to certifie the same into that Court at such day as the Writ commandeth.

This Writ is now accompanied with two Scedules, whereof the one containeth the Oath of the office of a Iustice of the Peace, in this forme:

The Oath of the office.

YEE shall sweare, that as Iustice of the Peace in the Countie of *Kent*, in all Articles in the Queenes Commission to you directed, ye shal do EGAL right to the poore, and to the rich, after your cunning, wit, and power, and after the lawes and customs of the Realme, and Statutes thereof made: And yee shal not be of counsel of any quarrel hanging before you: and that ye holde your Sessions after the forme of Statutes thereof made: And the issues, fines, and amercements, that shall happen to be made, and all forfaitures which shall fall before you, yee shall cause to be entred without anie concealement (or embeaseling) and truely sende them to the Queenes Eschequer. Ye shall not LET for gift, or other cause, but well and truely you shal doe your

1. REGAL in the printed Booke *Fitzh.*

2. SVRCEASE. In the printed Booke.

your office of Iuſtice of the Peace in that behalfe, and that you take nothing for your office of Iuſtice of the Peace to be done, but of the Queene, and fees accuſtomed, and coſtes limitted by the Statute: and yee ſhall not direct, nor cauſe to be directed, any Warrant (by you to bee made) to the parties, but yee ſhall direct them to the Bailifes of the ſayde Countie, or other the Queenes Officers or Miniſters, or other indifferent perſons to doe execution thereof: *So helpe you God, and by the contents of this Booke.*

3. *And his Saints* in the printed Booke.

The variance betweene this and that elder forme, ſtandeth (as you may ſee by the Margent) in three poyntes: whereof twaine bee of no waight at all, but the third did need amendment. For, right godly and well did thoſe 32. perſons (that were put in truſt to pen Eccleſiaſticall Lawes) purpoſe to make this Lawe, amongſt others:

Legitimum autem iuramentum, ijs verbis, & nullis alijs, ſuſcipi volumus: Ita me Deus, per Dominum noſtrum Ieſum Chriſtum adiuuet.

This Oath of the Office conſiſteth of ſixe Articles, which (for memories ſake) I haue ſeene expreſſed in theſe ſixe Verſes following:

1 *Do equall right to rich and poore,*
as Wit and Law extends:
2 *Giue none aduice in any cauſe,*
that you before depends:

3 *Your Sessions hold, as Statutes bid:*
the forfeites that befall,
4 *See entred well, and then estreat*
them to the Cheaquer all:
5 *Receiue no fee, but that is giuen*
by Queene, good vse, or right:
6 *Ne send Precept to partie selfe,*
but to indifferent wight.

The other Scedule comprehendeth that forme of Oath, which (after the second abolishment of the vsurped authoritie of the Romish Pharaoh, by the ioyous entrie of our gracious Queene Elizabeth) was in the first Parliament of her raigne (cap. 1.) appointed for Iustices of Peace (amongst others) to take, before that they should exercise the office: and it hath these words:

The Oath of *Supremacie,*

I WILLIAM LAMBARD, doe vtterly testifie and declare in my conscience, that the Queenes highnesse is the onely supreme Gouernour of this Realme, and of all other her highnesse Dominions and Countries, as well in all spirituall and ecclesiasticall things (or causes) as temporall: and that no foraine Prince, Person, Prelate, State, or Potentate, hath, or ought to haue, any iurisdiction, power, superioritie, preheminence, or authoritie, ecclesiasticall or spirituall, within this realme: And therefore, I doe vtterly renounce and forsake

forsake all foraine iurisdiction, powers, superiorities, and authorities, and doe promise, that from hencefoorth I shall beare faith and true allegeance to the Queenes Highnesse, her heires and lawfull successours, and (to my power) shall assist and defend all iurisdiction, priuiledge, preheminence, and authoritie granted or belonging to the Queenes Highnesse, her heires and successors, and vnited and annexed to the Imperiall Crowne of the Realme: *So helpe me God, &c.*

There hath bene care taken, once or twise, (in our memorie) to exact this latter Oath of al the Iustices of Peace throughout the realme, whereof some good hath ensued: But yet many a Iustice there is, that (by indirect practise) neuer tooke, eyther this, or the former: whereof what harmes doe, and may growe, I leaue to wiser and higher men, to be considered: Adding this onely, that it would auayle greatly to the furtherance of the Seruice, if the *Dedimus potestatem* to giue these Oathes were dirigible to the Iustices (and none other) to minister the same not elsewhere, but in their open Sessions.

Of

Of the power absolute, and limitted, that the Iustices of the Peace haue.

Cap. xi.

Discretion.

THe power of the Iustices of Peace, whether you will consider it by the view of this their Commission, or by their authoritie conteined in the Statutes, is in some cases Limitted, and (in other some cases) Absolute: By which latter word, I doe not meane absolute Simply, but after a Maner: For, they may neyther hang a man for a greeuous Trespasse, nor fine him for a Felonie: and therefore this absolute authoritie is to our Lawe better knowen by the name of Discretion, because the Iustice of Peace may exercise sometimes *Legis actionem*, and sometimes *Iudicis officium*: or (which is all one) *Iudicium, & Decretum*, as the case shal offer, and the law will suffer him.

It is a good Counsell which Aristotle giueth in his Rhetorikes *ad Theodectem*, that in the making of lawes, *Quoàd eius fieri possit, quàm plurima legibus ipsis definiantur, quàm paucissima verò Iudicis arbitrio relinquantur*: and the Commission of the Peace (following that aduise) doth leaue little (or nothing) to the discretion of the Iustices of the Peace, but bindeth them fast with the chaines of the Lawes, customes,

customes, ordinances, and Statutes.

Howbeit, our latter lawes of Parliament, although they also doe endeuour (for the most part) to hold the same course: yet, forasmuch as euery considerable circumstance cannot bee foreseene at the time of the making of the Law, they doe many times leaue to be supplied (by the discretion of the Executioner of the Lawe) that thing which was not conueniently comprehended before hand, by the wisdome of the Author of the Law. And therefore, although Discretion, bee necessarie in the execution of euery law (bee it neuer so certainely set forth, and bounded in it selfe) yet (in the mouth and language of our Law,) that onely and properly is said to be done by Discretion, which is not specially limitted with al the circumstances, but is indifferently referred to the consideration of the Iustice that is put in trust with it.

And truely it is to be wished, that Iustices of the Peace woulde not (by colour of this reference to their Discretion in some fewe cases) arrogate vnto themselues authoritie to vse their discretion, and to play (as it were) the Chauncellors in euery cause that commeth before them. For, no way better shall the Discretion of a Iustice of the Peace appeare, then if he (remembring that he is *Lex loquens*) doe containe himselfe within the liftes of law, and (being soberly wise) doe not vse his owne Discretion,

but

but onely where both the lawe permitteth, and the present case requireth it. Right well sayde Cicero: *est sapientis Iudicis cogitare, tantum sibi esse permissum, quantum sit commissum ac creditum.*

Of the *Iurisdiction*, and *Coertion*, belonging to the *Iustices* of Peace.

Cap. xii.

AS Iustice cannot bee administred, without both a Declaration of the lawe, and an Execution of the same: So to the end that our Iustices of the Peace may bee able to deliuer Iustice, they are accomplished with double power, the one of Iurisdiction, and the other of Coertion, that is to say, with ample Authoritie, not onely to conuent the persons, but also (after the cause heard and adiudged) to constraine them to the obedience of their order and decree.

Iurisdiction. This Iurisdiction of theirs is exercised, for the most part (if not altogether) about those causes, which be in a manner the same that the Ciuil Lawyers do call, *Iudicia publica*: partly, because the Prince (who representeth the head of the common wealth) hath interest in the most of them, as well as that priuate person which is immediatly offended: and partly, because they are not commonly tryed by such

Action

Action as other Ciuill and Priuate cauſes are, but rather by Criminall and Publique Accuſation, Information, or Preſentment.

And herein, the Iuſtice of the Peace is by the one halfe ſuperiour to the ancient Conſeruator of the Peace, who had onely Coertion or Prehenſion in a few caſes, and no Iuriſdiction in any cauſe that I remember.

But if the authoritie of theſe Iuſtices ſhould ceaſe, when the fault is tolde, heard, and adiudged, then ſhould they be no better then halfe Iuſtices: and therefore the Law hath alſo put Cohertion, Execution, or puniſhment (as I ſayde) into their hands: leaſt otherwiſe their iudgements ſhould be deluded for want of power to bring them to effect.

Cohertion, or puniſhment, for what cauſes it is appointed.

This Puniſhment then, is an orderly execution of a lawfull iudgement, layd vpon an offendor, by the miniſter of the Lawe: and it is done for foure cauſes: firſt, for the amendment of the offendor: Secondly, for examples ſake, that others may thereby bee kept from offending: Thirdly, for the maintenance of the authoritie and credite of the perſon that is offended: and theſe three reaſons bee common to all ſuch puniſhments. Seneca rehearſeth the fourth finall cauſe, that is to ſay, that (wicked men being taken away) the good may liue in better ſecuritie: & this pertaineth not to al, but to Capitall puniſhments onely, as euery man

may at the first hearing vnderstand.

The Romanes vsed specially, eight sortes of chastisements, knowen to them by these names, *Damnum, Vincula, Verbera, Talio, Ignominia, Exilium, Seruitus, Mors*, that is, losse of goods, imprisonment, stripes, retaliation, reproch, banishment, seruitude, and death: All which, our lawe (before the Conquest) was wont to inflict, albeit that nowe, Seruitude, Retaliation, and Banishment, be out of vse.

The sorts of punishment.

The punishments that be commonly put in execution at this day, and wherewith the Iustices of the Peace haue to doe, they be deuided into Corporall, Pecuniarie, and Infamous.

Corporall.

Corporall punishment, is either Capitall, or not Capitall. Capitall (or deadly) punishment is done sundry waies, as by hanging, burning, boyling, or pressing: not Capitall, is of diuers sortes also, as cutting off the hand or eare, burning (or marking) the hand or face, boaring through the eare, whipping, imprisoning, stocking, setting on the Pillorie, or Cucking stoole, which in old time was called the Tumbrell. Of this kind of punishment, our olde lawe (making precious estimation of the liues of men) had moe sortes then we nowe haue: as pulling out the tongue for false rumours, cutting off the nose for adulterie, taking away the priuie parts for counterfaiting of money, &c.

Pecuniarie.

Vnder the name of Pecuniarie punishment,

I com-

I compꝛehend all Iſſues, Fines, Amerciaments and Forfeitures of offices, goods, oꝛ lands.

And, if the Iuſtices of Peace may by vertue of their Commiſſion deale with ſuch Conſpirators, as doe confederate together, to cauſe any perſon vniuſtly to be indited of Felonie, whereof afterward he is acquited (as ſome doe thinke they may) then is there a ſpeciall puniſhment in that caſe appointed by law, which in 24.E. 3.73. is termed Vilanous, and may be wel called Infamous, becauſe the iudgement in ſuch caſe ſhall be like vnto the ancient iudgement in Attaint, as it is ſayde 4.H.5. Fitz. Iudgement 220. and is (in 27. lib. Aſſ. Pl. 59.) ſet downe to be, that their oaths ſhall not bee of any credite after: nor lawfull for them in perſon to approch the Queenes courts: and that their lands and goods be ſeazed into the Queenes handes: their trees rooted vp, and their bodies impriſoned, &c. And at this day, the puniſhment appoynted foꝛ Periurie (hauing ſomewhat moꝛe in it then Corporall oꝛ Pecuniarie paine) ſtretching to the diſcrediting of the teſtimonie of the offendoꝛ foꝛ euer after, may be partaker of this name.

E. That

That *Iustices* of the Peace, be *Iudges* of *Record.*

Cap. xiii.

IT maketh not a little, both for maintenance of the Peace, and for the credite of the Iustices thereof, that they are numbred amongst the Iudges of Record. For, on the one side euill doers will be afraid, when they shal see Memorials of their wickednesse before their eyes: and on the other side, the proceedings of those Iustices shall bee so much the more reuerenced and set by, as it shall appeare that their endeuours are countenanced with the fauour of authoritie. And therefore, let vs see what is meant by the worde Record.

Record, what it is.

The Latine men vse *Recordor*, when they will signifie, to keepe in minde, or to remember: in which sense the Poet sayd,

Si rite audita recordor:

And after the same sense also doth our Lawe vse it. For, Recordes be nothing else but Memorials (or Monuments) of thinges done before Iudges, that haue credite in that behalfe. And therefore, where King E. 1. doth in the beginning of the Booke (called Britton) set forth the Iudges of his Courts, he sayeth of some, that they shall haue authoritie of Record: and of others, that they shall beare Record: both which

speeches

ſpeeches doe meane but one thing, namely, that they ſhall be truſted in the repoꝛt of cauſes happening beſoꝛe them: and we yet ſay in common ſpeach, Such a man ſhall beare record of a thing, when we intend to ſay, that he remembreth it, and can beare witneſſe of it. So that in the vſe of the woꝛd there is (in maner) no difference, and therefoꝛe let vs examine the matter.

One man may affirme a thing, and another man may denie it: but if a Recorde once ſay the woꝛde, no man ſhall bee receyued to Auerre (oꝛ ſpeake) againſt it. Foꝛ (ſayth M. Bracton Fol. 156. writing of a ſpeciall caſe, where the Shirife in his Countie hath Recorde) if men ſhoulde bee admmitted to deny the enrolled actes of the Court, then woulde there neuer be any end of controuerſies. And of the ſame mind, beſoꝛe him was M. Glanuille, lib. 8. cap. 8. And therefoꝛe to auoyde all contention that may ariſe, while one ſayth one thing, and one other ſayth another thing, the Lawe repoſeth it ſelfe wholy and ſolely in the repoꝛt of the Iudge: and hereof it commeth, that hee cannot make any ſubſtitute oꝛ Deputie in his office (as M. Bracton and Britton both, doe affirme) ſeeing that he may not put ouer the confidence that is put in him.

This Record (oꝛ Teſtimonie) is firſt contayned within the breaſt of the Iudge (as our Law ſpeaketh) and afterward committed to the *The Rolles be Records.*

Rolles: which are therefore figuratiuely called Records also. For you may see (7.H.6.28. in Hildebrandes case: 19.H.6.9: and else where) that during all the time of that Terme, in which any thing passeth before the Iustices at *Westminster*, the Record thereof is in *Scrinio pectoris*, in their owne hearts, or breasts, so that they may at their owne pleasure correct or amend it: But after the Terme ended, it is onely in their Rolles, ouer the which they haue no controlment. And this agreeth right well with that which Britton Fol. 3. affirmeth, saying in the Kings person, thus: And albeit that wee haue graunted to our Iustices to beare Record of the pleas pleaded before them: yet by this we will not, that their record shall bee any warrant in their owne wrong, nor that they may raze or amend their Roll, nor make record against their enrolment.

Thus much generally of all Iudges of Record: now touching our Iustices of the Peace, it is the opinion of the Court (9.E.4.3: and 14.H.8.16.) and of diuers other Bookes in our Lawe, that euery one of them (euen by himselfe) is a Iudge of Record. For (as you haue heard) he is made, by the great Seale, a matter of Record: and hath Iudiciall power giuen vnto him, euen by the first *Assignauimus* of the Commission: He hath also a Seale of his Office, by the opinion of Brudnell. 14.H.8.16. and

if

if he make any Warrant, although it be beyond his authoritie, yet is it not disputable by a Constable, or other inferiour Minister, but must bee obeyed: And he may take a Recognusance for the Peace, as appeareth, 7. H. 4. 34: and common experience telleth it: the which none can do, but a Iudge of Record, because the acknowledging of that summe, is to remaine as a matter of Record: Yea, by good opinion (2. H. 7. 1.) a *Supersedeas* of the Peace, made by one Iustice of Peace, vnder his seale, being brought into the Sessions, is a sufficient Record to proue, that there is a Recognusance of Peace taken by the same Iustice: and it is warrant inough to call the partie bound thereupon, and if he make default, to Recorde the same. Moreouer his Record (or testimonie) is in some case of greater force and value, then an Enditement vnder the oath of twelue men: for, his Record (as I will shew particularly hereafter, in place conuenient) shal conclude the party so, that he shal not be admitted to Trauerse or gainsay it 21. H. 6. 5: Fitzh. Fol. 18: 15. R. 2. cap. 2: 11. H. 7. cap. 15: & 33. H. 8. ca. 6. Thus much being truely said of any one Iustice of the Peace: most truly may it be affirmed, that two, or mo such Iustices, sitting in the execution of their authoritie, are Iudges of Record.

Great cause haue the Iustices of Peace therefore, to take diligent heede, that they abuse

not this credite: eyther to the oppressing of any subiect by making an vntrue Record, or to the defrauding of the Prince by suppressing the Record that is true and faythfull.

How long time the authoritie of the *Commissioners* of the Peace is to endure: and by what meanes it may be suspended, or determined.

Cap. xiiii.

WE haue already touched, that the power of the Commissioners of the Peace is not perpetuall: but now the place serueth to handle it at full.

The Commissioners of the Peace, are to continue during only the pleasure of the Prince, by whose pleasure they were at the first appointed: and therefore, by the determination of that pleasure, their authoritie ceaseth also. Besides the which, there are other meanes to determine their Authoritie, as namely, the Accession of an other office: the Presence of a higher power: and (in some speciall case) the want of Adiournement of their Commission.

The pleasure of the Prince may bee determined, eyther by expresse word, or by implication, or by death.

By expresse word.

The Queenes Maiestie therefore, may discharge the Commissioners of the Peace by her expresse

expreſſe Writ, vnder the great Seale. L. 5. E. 4. 32. And if ſhe ſend a *Superſedeas* to al the Commiſſioners of the Peace, that will ſuſpend all their authority: But yet ſo, as it may bee reuiued by a *Procedendo*: and therefore it doth not vtterly determine their authoritie, as may bee gathered by 12. lib. Aſſ. Pl. 21.

By implication of a new Commiſſion.

Againe, when the Queenes Maieſtie maketh other Commiſſioners of the ſame kinde within the ſame limits, it is implied thereby, (for auoyding of repugnancie,) that the former Commiſſioners ſhall haue no longer power, although there be neuer a word ſpoken of the diſcharge of them: 3. Mar. Regi. Brooke. *Tit.* Commiſſion 24. But yet, if there be Iuſtices of the Peace by Commiſſion in a whole County, and afterward the Queene maketh another man Iuſtice of the Peace, in one Towne of the ſayd Countie, Chocke (onely againſt others) was of opinion 10. E. 4. 7. that the power of the firſt Commiſſioners continued ſtill in that Towne, becauſe that it is not altogether contrariant. And Iudge Fineux held alſo (20. H. 7. 8.) that if the Queene make a proper Iuſtice of the Peace within a ſpecial Libertie, yet may the generall Iuſtices of the Peace of that Shire, meddle there: vnleſſe there be wordes of Prohibition in the Patent, as, *quod nulli alij Iuſticiarij noſtri ſe intromittant &c.*

Generall, and proper Iuſtices.

If the auncient Commiſsion of the Peace

were to foure persons, and afterwarde the Queene should make one man a full Iustice of the Peace through the same limit, during his life: then should the hands of the foure Commissioners be closed, saith Marrow.

And a newe Commission *pro hac vice tantum*, will determine the olde: So also, a newe Commission to heare and determine Felonies, determineth the olde Commission of the Peace concerning Felonies, but not concerning the Peace: And a newe Commission of the Peace, *ad inquirendum tantum*, is a determination of the old Commission, *ad audiendum & terminandum*, by Mar.

But it is plaine, by the preamble of the statute (2. & 3. Phil. & Mar. ca. 18.) that the Law was taken, that if a Commission of the peace were first graunted to certaine within a towne, and after another Commission had bene granted to others within the whole shire, that this had bene a *Supersedeas* to the Commissioners within the sayd towne.

Howbeit, this determination of the olde Commission (that we speake of) groweth not immediately by the making of a newe Commission: but eyther after the reading (or proclayming) of the new Commission at the Sessions of the Peace, or at the full Countie: or else by holding of some Session by vertue of the new Commission (in all which cases the olde Com-

Commissioners must take notice of new Commission) or els after the giuing of notice of the new Commission vnto the old Commissioners: for, otherwise al the meane acts of the old Commissioners, be good in law. Mar. & 21. H. 6, 29: & 34. lib. Ass. Pl. 28.

And, forasmuch as some Cities and Corporate Townes founde themselues grieued with the law, standing as hath beene remembred: it was specially ordained by the said Statute (2. & 3. Phil. & Mar. cap. 18.) that a Commission of the Peace and Gaole deliuerie made to a Citie or corporate towne, (not being a Countie by it selfe) shoulde not bee determined by the making of such an other Commission afterward to any of the Shire, Lath, Rape, or Wapentake, in which, that Citie or towne standeth.

Finally, it is to bee noted, that in all cases where an ancient Commission of the Peace is determined by a new: yet no Processe or Suite (hanging before the olde Commissioners) shal be discontinued thereby: 11. H. 6. cap. 6: & 1. E. 6. cap. 7.

By the death or demise of the Prince, dyeth also the power of all the Commissioners of the Peace made by him: for he maketh them *Iusticiarios suos*: so that he being once dead, or hauing giuen ouer his Crowne, they are no more his Iustices: and the Iustices of the next Prince they shall not be, vnles he be pleased so to make them:

4. E. 4.

4.E.4.44.& 1.E.5.1.

Accession of an other office.

It seemeth, that some tooke the Law to bee, that if a Iustice of the Peace were created a Duke, Marquesse, Earle, Vicount, or Baron, or were elected an Archbishop, or Bishop, or were made a Knight, or Iustice of any of the two Benches, or Serieant at the law: that then his Office of the Peace was determined thereby: because it could not be thought, that (his name being changed) hee should remaine the same person: And so, if hee were made Sherife, that his Iusticeship ceased also: because (as Mar. saith) he could not be both a Iustice and an Officer, to direct and serue, his owne Precepts: and so likewise, was it thought of him, if hee were made a Coronor, but not so if he were made an Vndersherife. And therefore, for explanation of the Lawe in the most of these cases, it was enacted (1.E.6.c.7.) that if a Iustice of the Peace were made a Duke, Marques, Earle, Vicount, Baron, Archbishop, Bishop, Iustice, of the one Bench or other, Knight, Serieant at the Law, or Sherife, that yet he should be Iustice of the peace still: But that acte was afterwarde vpon good reason controlled in part, and a new law made (1.Mar.Parl.1.cap.8.) by which it was ordered, that no man shall exercise the office of a Iustice of the Peace, during onely the time that hee is Sherife of the same Countie, wherein he is also Iustice of the Peace.

Further-

Furthermore, if the Iustices in Eire (being of a higher power then Iustices of the Peace) do (after proclamation thereof first made) come into any Countie, and sit there by vertue of their authoritie: then ceaseth the power of the Commissioners of the Peace. Mar. And he thinketh so likewise, if the Kings bench (vpon proclamation thereof made) shoulde remoue into any Countie. But aske of this, for if it should bee so, then it may bee some question also, what is wrought by the comming of the Iustices of the *Nisiprius* into the Countrie, who doe ordinarily bring Commission of Oyer, and Determiner, and of Gaole deliuerie with them. By the presence of a higher power.

Lastly, if Iustices of the Peace, that haue a Commission *hac vice tantum*, doe sit by vertue of their Commission, and doe not Adiourne the same, it seemeth that their Commission is determined thereby. Brooke *Tit.* Commission 11. By want of Adiournement.

THE

THE SECOND Booke, conteyning the *Practicque* of one *Iustice* of the Peace, out of the *Session*.

That all the authoritie of the *Iustices* of the Peace is exercised, either *out* of the *Sessions*, or *at* (or *by reason of*) the *Sessions* of the Peace, &c.

CAP. I.

The summe of the first Booke.

IN the former booke I haue dilated that, which lieth in the first part of my Definition of the Iustices of Peace: and I haue therewithall giuen the Reader a Theoricque (or insight) as it were, of their whole Office: in shewing what it is, when it began, how it is endowed, by what meanes it is mainteined, and after what sort it may be determined.

But nowe, forasmuch as all the Power and Seruice of those Iustices of the Peace is directed to that ende which is disclosed in the latter halfe of the same Definition, namely, For the conseruation of the Peace, and for the execu-

tion

tion of their Commiſſion, and of the Statutes committed to their charge, it is meete that I enter into the Practique of their Office and duetie, and ſhewe you from point to point howe the ſame is to be done and adminiſtred.

And for the more lightſome proceeding herein: I will ſet foorth the power of the Iuſtices of the Peace by a Diſtribution, though not Eſſentiall, yet ſuch as may ſuffice to conueigh my whole plot and meaning.

Whether therfore, the Iuſtices of the Peace, doe (by vertue of the Commiſſion or Statutes) enquire, or Heare, and Determine by the way of Iuriſdiction: or elſe do keepe (or cauſe to be kept) the Peace, or doe puniſh and execute, by way of Coertion: And whether the ſame alſo be done, by their Regular power, or Abſolute authoritie: It is alwayes practiſed and done, eyther out of the Seſſions of the Peace, or elſe at (or by reaſon of) the Seſſions of the Peace.

A partition, of all that which followeth in theſe three Bookes enſuing.

And that which is done out of the Seſſions, is either ſuch, as one Iuſtice alone may doe: or elſe it requireth the helpe and preſence of other Iuſtices with him. And therefore, firſt of that which one Iuſtice alone may doe, out of the Seſſions.

The ſumme of that which is hereafter contained in this ſecond Booke.

Of

Of *Suertie* of the Peace, and the *Good Abearing*: and of sundry things incident vnto the same: And what any one *Iustice* of Peace (out of the *Sessions*) may doe therein.

CAP. 11.

FOrasmuch as the Conseruation of the Peace standeth, partly in prouiding that it bee not broken, and partly in punishing such as haue alreadie violated and broken it: and for that any one Iustice of the Peace is sufficiently armed with authoritie (out of the Sessions) to preuent the breach of the Peace, both by taking Suertie for the keeping of it, and for the good behauiour of Offendors, I thinke good, first to shewe what Suertie of the Peace is: then, to open howe it may be commaunded: after that, to declare how the same commaundement shall be executed and brought to effect: fourthly, to disclose what shall become of the Suertie when it is taken: and lastly, to describe the Suertie of the Good behauiour (or Good Abearing) and to conferre the handling thereof with that of the Peace.

The partes of this Chapter.

The auncient Normans had a maner of Suertie of the Peace, which they named Treues (the same that we call Truce) and which they vsed to giue after this order. Hee of whome it was demaunded, did (in open Court) take him by

by the hand that demanded it, and did withall solemnly sweare, that neither he, nor any of his, should doe harme vnto him. But our Gouernours, knowing that euill men be more restrayned by losse of goods, then by conscience of an Oath, haue vsed to take sure bonde, and that to the Prince, for the security of such as be in feare. And therefore, I will (at this day) call Suertie of the Peace, An acknowledging of a bond to the Prince, taken by a competent Iudge of Record, for the keeping of the Peace. And it is called Suertie, of the word *Securitas*, because the partie that was in feare, is thereby the more secure and quiet.

What *Suertie* of the Peace is.

This Suertie may a Iustice of the Peace command, either as a Minister, when he is willed to doe it by a higher authority: or as a Iudge, when he doth it of his owne power deriued from his Commission.

He doth it as a Minister, when the Writ of *Supplicauit* (which in old time was called *Breue de Minis*, as appeareth by the Register) directed out of the Chancerie, is deliuered to his handes: for then, he onely is to direct his Precept, to compell the partie (vpon that Writte) to finde Suertie for the Peace. 21. Hen. 7. 20. Fineux.

Suertie of the Peace taken vpon a *Supplicauit*, by a *Iustice* of the Peace, as a *Minister*.

The forme of which Precept (or Warrant) may be thus in English:

GEORGE

GEORGE MVLTON, one of the Iuſtices of the Peace of our Soueraigne Ladie the Queenes Maieſtie within the Countie of *Kent*, To the Shirife of the ſaid Shire, the Conſtables of the Hundred of *Wrotcham*, the Burſholder of the towne of *Ightham*, and to all and ſingular the Queenes Maieſties Bailifes, and other Miniſters, as wel within Liberties as without, in the ſaid Countie, and to euery of them, greeting: Know ye, that I haue receiued the commaundement of our ſaid Soueraigne Lady in theſe words (reciting the whole Writ of *Supplicauit*, which is not alwayes of one forme, becauſe it is ſometimes directed to all the Iuſtices of the Peace, ſometimes to them and the Sherife, and ſometimes to one Iuſtice alone) or reciting only the effect of the *Supplicauit*, thus:

Know yee, that I haue receiued the commandement of our ſaide Soueraigne Lady, to compell, *A.B.* of *Ightham*, in the ſaid Countie Yeoman, to finde ſufficient Suertie for her Maieſties Peace by him to be kept towards *C. D.* of the ſaid Towne of *Ightham* Tailor: And therfore on the behalfe of our ſaid ſoueraigne Lady, I command and charge you, ioyntly and ſeuerally, that immediately vpon the receipt hereof, you cauſe the ſaid *A. B.* to come before me at *Ightham* aforeſaid, to find ſufficient ſuertie and mainpriſe, for the Peace to be kept towards

towardes our saide Soueraigne Lady, and all her liege people, and specially towardes the said *C.D.* And if he the said *A.B.* shall refuse thus to doe, that then you him safely conuey, or cause to bee safely conueied, to the next Gaole of her Maiesty in the said Countie, there to remaine vntill that hee shall willingly doe the same. So that he may be before the Iustices of the Peace of our saide soueraigne Lady within the said Countie at their next generall sessions of the Peace (to bee holden at *M.*) there to answere to our said Soueraigne Lady for his contempt in this behalfe. And see that you certifie your doing in the premisses, to the said Iustices at the said Sessions, bringing then thither this Precept with you. Yeouen at *Ightham* aforesaide, vnder my Seale, the fourth day of &c.

Suertie of the Peace taken by a Iustice of the Peace as a Iudge.

A Iustice of the Peace, may also by vertue of his Office, and as he is a Iudge, command this Suertie to be found: and that, either of his owne motion and discretion, or else at the request and prayer of an other.

By his owne discretion.

For hee may cause a Common Barettour, Riottour, one that maketh an Affray, or other person to him Suspected, to finde Suertie of the Peace, 9. Edw. 4. 3. *Curia.* And if hee see men contending in hote wordes, and threatning the one to hurt (or kill) the other, hee may of Discretion, and ought of Duetie (as I thinke) to

commaund them to finde Suertie of the Peace, and therby prouide for their mutual safety. For, as he is put in trust with the care of the Peace, so ought he both to employ his witte, and to vse his authority, to preuent the Breach of the same. And if a man that was bound to keep the Peace, haue broken his bond, the Iustice of Peace ought of Discretion to binde him of new. 21. Edw. 4. 40: and Marrow.

And his authoritie is so little to be controlled in this matter, that M. Marrow is of the opinion, that if a Iustice of the Peace shoulde procure one man to demand Suerty of the Peace against another, and hee himselfe should graunt a Warrant for it, by which the partie is arrested: yet no Action woulde lie against that Iustice for his so doing: because he might haue graunted it without any demand made: and then it shall not bee said, but that hee saw cause to prouoke the partie to aske it, and for himselfe to graunt it.

Suertie at the request of an other.

In commanding this Suertie, at the suite of another, or of his owne discretion, sundry things are wisely to be considered: first, for whom, and against whom: then, for what cause, and how, it ought to be required or commanded: and lastly, by what meanes it shal be iniopned.

For whom, and against whom *Suertie* of the Peace lieth.

The wife if she be threatned to be killed, or to be outragiously chastised by her husbande, may with good reason demaunde the Peace against him. Fitzh. Nat. Br. Fo. 80. & 230. And I doe

not

not doubt, but a Iustice may (in such a case) commaund it vpon his owne discretion.

The husband also may demaunde the Peace against his owne wife in the like case: and any man may demaunde it against the wife of another. Mar.

A man attainted of Treason, or Felonie, or conuict of Heresie, or Abiured, a Dumbe man, or an Infant, (though within 14. yeres of age) or a Villaine against his Lord, may demaund, and ought to haue, Suertie of the Peace, Mar. And I doe not find any strong reason, why the Lord against his Villaine, or another man against a dumbe man that is not deafe, or against an Infant aboue the age of 14. yeres, ought not vpon good cause to haue it, though perhappes the two last cannot be bound for themselues. But a mad man shall not haue Suertie of the Peace, at his owne request (as M. Mar. thought) because hee hath no discretion to aske it: and therefore (if there be cause) he ought to be prouided for by the discretion of the Iustice, as I thinke.

Neither shall Suertie of the Peace be graunted against a mad man, except he haue *Lucida intervalla*, that is to say, certaine respites and eases from his Lunacie, in which hee may seeme to haue the vse of reason and right iudgement.

A man attainted in a Premunire, or that is an Alien borne (and no Denizein) ought not to

haue this Suertie at his desire, as M. Mar. taketh it: But perhaps he would haue changed his opinion, in the case of Premunire (if he had liued at this time) vpon sight of the Statute 5. El. ca. 1: for, such a man may not nowe bee killed, as though hee were out of the protection of the Queene: and as touching the Alien, some think there ought to be a difference, betweene such an Alien as is of the Enmitie of the Queene, and him that is of her Amitie: for, the Statutes (Mag. Car. ca. 30: 9. E. 3. ca. 1: 14. E. 3. Stat. 2. cap. 2. and sundrie others) doe all vse that difference in Marchant strangers, & doe prouide, that such of them as be not Enemies of the Realme, may both safely come into the Realme, and tarie here, and go hence, at their free pleasures.

But the case may beare some doubt, because the Commission it selfe seemeth to authorize the Iustice of Peace, no further then to prouide for the Queenes people, of which number no Alien seemeth to bee. But why any Alien may not bee bounde to the Peace, I doe not yet vnderstand.

Furthermore, one Iustice of the Peace, (saith M. Mar.) may graunt this Suertie to any man, against one of his fellow Iustices. But as M. Mar. requireth a Discretion in a Iustice of the Peace, when Suertie is craued of him against a Sherife, Coroner, Escheator, or such other Officer, (whome hee wisheth not to bee bounde to keepe

keepe the Peace *versus cunctum populum*, but onely towardes him that prayeth it, least otherwise it shoulde argue them to bee vnwoorthy of such Offices) so, much more hee ought to vse good discretion, in graunting it against his fellow Iustice, least otherwise hee both bring the Office in contempt, and himselfe to reproofe by it. But I doubt not, but that one Iustice of Peace (if he will) may pray Suertie of the Peace at the handes of his fellowe Iustice against another person: and the Recognusaunce may then be according to the common forme, with *Et præcipuè versus, &c.*

Hitherto of those, for whom, & against whom, the Iustice of Peace may graunt this Suertie when it shall be required: which will suffice to giue him light what to doe in other like cases.

But some others there be perhappes, with whome hee may not well meddle: As if a man haue cause to require the peace against a Lord: he for so smal a cause is not tobe arrested (as I take it) by warrant from a Iustice, nor yet by a *Supplicauit* out of the Chancerie. But the Lord Chancellor may in such case graunt to the partie a *Subpœna* against that Lord for it, as it seemeth by 35. H. 6. Fitz. *Tit. Subpœna* 20. For such an opinion hath the lawe conceiued of the peaceable disposition of Noblemen, that it hath beene thought inough to take one of their promises vpon Honour, that he would not breake

Suertie of the Peace against a Lord.

the Peace against a man. Brooke, *Tit.* Contempts. 6: 17. E. 4. 4: & 24. E. 3. 33: & *Sub pœn.* Fitzh. 20. But whether the Lord Chancellor may award an Attachment vpon such a *Sub pœna*, it hath bene (in our memorie) a great question.

And if there be cause to aske the Peace against one that dwelleth in the Cinque Portes, that must be by Writ out of the Chancerie, directed to the Constable of Douer, & the Warden of the Cinque Ports, Fitz. *Nat. Bre.* 80: & Regist. 88.

For what causes *Suertie* of the Peace may be required.

The cause, for which this Suertie of the peace may be required (or commaunded) appeareth in the first *Assignauimus* of the Commission of the Peace, in these words, *Et ad omnes illos qui aliquibus vel alicui de populo nostro, (de corporibus suis, vel de incendio domorum suarum) minas fecerint, ad sufficientem securitatem de pace & inueniendam, &c.* which M. Fitzh. (Fol. 8.) construeth thus: Hee that is threatned that hee shall bee hurt in his bodie, or that his house or goods shall bee burnt, may demaund Suertie of the peace for his safegarde in that behalf. But (saith the Court 17. E. 4. 4.) if a man will demaund the Peace, because hee is in feare that an other man will take and imprison him, it ought not to be graunted: and one yeeldeth the reason to be, because he may haue a Writ *De homine replegiando*, or an Action of false imprisonment, and may thereby recouer the

the damages of his imprisonment.

The same reason might be made against the demaund of the Peace, where a man is threatned with Batterie: and yet it is cleare, that in such a case the Suertie of Peace ought not to bee denied him: and truely to threaten imprisonment, is within the wordes *Minas de corporibus*, no lesse then Batterie it selfe: and like harme may happen by harde imprisonment, and cruell beating. It shall be good therefore to enquire of this matter.

But I take it somewhat cleare, that a Iustice of the Peace may not (by this Commission) award a Precept of the Peace, in the behalfe of a man that will require it because he is at variance with his Neighbour, and feareth that he will doe harme to his seruants, or cattell. For in that case M. Fitzh. helpeth him with an old Writ to the Sherife, as hee findeth it in the Register. Fitzh. Nat. Bre. 80.

How *Suertie* of the Peace is to be required.

The Peace being thus (for good cause) required, it is the common manner to exact an Oath of the partie: whereby the Iustice may be the better enformed and ledde to thinke, that he doth not aske it for malicious vexation of an other, but of very feare, and for the needfull safetie of himselfe and his. And M. Fitzh. (in his Nat. Bre. Fol. 79.) laboureth to shewe, that the Iustices of the Peace ought not (without such an Oath) to graunt this Suertie, at the suite of anie

By *Oath.*

man: For as much as not onely the Iudges of the Kings Bench doe yet take an Oath in such case, but the ancient course of the Law was such in the Chancerie it self also, although it be now a dayes otherwise vsed there.

Now that a Iustice may in this case the better iudge of this Feare, let him hearken what M. Bracton (Fol. 16.) saith: *Metus est* (saith he) *præsentis, vel futuri periculi causa, mentis trepidatio: talis enim debet esse metus, qui in se contineat mortis periculum, vel corporis cruciatum.* And therefore, if a Iustice of the Peace, doe perceiue, that the Peace is demanded against such a person, as for his impotencie is not like to breake the Peace, he may safely denie it, saieth M. Marrow: But *Satius est peccare in alteram partem*, as I suppose, least (if hee bee slaine that demanded it) the Iustice be worthily blamed, for that hee prouided not for his life and safetie. Besides all which, the common forme of the Recognusance, is to binde a man from procuring hurt, the which any impotent man is sufficient to accomplish.

By what meanes *Suerty* of the Peace shal be enioyned.

It resteth, that I shew, by what meane this Suertie may be enioyned: and that is, either by Worde, or by Writing vnder Seale. For, a Iustice of the Peace may by word onely command a man (beeing in his presence) to finde Suertie of the Peace: 9. E. 4. 3. for, seeing that he is a Iudge of Record (saieth M. Fitzh. Fol. 8.) his

By *Worde.*

Precept

Precept by mouth, is stronger then his Precept in writing.

So, if the Peace be demaunded against one that is in his presence, hee may commaund the Shirife, or other knowen Officer, or his owne seruant (if they be then present also) to arrest the partie to finde this Suertie, 14.H.7.8: & Marrow. If or, it is not so much the arrest of the Minister, as of the Iustice himselfe: But, if eyther the Officer, Seruant, or Partie, bee absent, then it is requisite to make a Warrant (or Precept) in writing: The forme whereof may bee thus in English: for I see no cause yet, why it should bee directed in Latine, to a Conestable, or Borsholder, that (by all presumption) vnderstandeth no Latine at all.

By writing.

ELIZABETH by the grace of God, &c. To our Shirife of *Kent*, the Constables of the Hundred of *Wrotcham*, the Borsholder of the Towne of *Ightham*, and to all and singular our Bailifes, and other our Ministers in the sayd Countie, as wel within liberties as without, greeting. Forasmuch as *A. B.* of *Wrotham* aforesayde, Yeoman, hath personally come before ROB. BYNG. of the sayd towne Esquier, one of our Iustices of the Peace within the sayde Countie, and hath taken a corporal oath, that he is afraid that one *C. D.* of *Shipborne*, in the sayd Countie Yeoman, will beate,

Kanc.
The *Precept* for the Peace.

All, or any one of these causes may suffice.

beate, wound, maime, or kill him, or burne his houses, & hath therewithall prayed suerty of the Peace against the sayd *C.D.* Therefore we command and charge you iointly & seuerally, that immediatly vpon the receipt hereof, you cause the said *C.D.* to come before the said *R. B.* or some other of our said Iustices, to finde sufficient Suerty & Mainprise, aswel for his appearance at the next quarter *Sessions* of our Peace to be holden at *M.* in the sayd County, as also for our Peace to bee kept towards vs, and al our liege people, & chiefly towards the sayd *A.B.* that is to say, that he the sayd *C.D.* shall not doe, nor by any meanes procure or cause to be done any of the sayd euils, to any of our said people, and especially to the said *A. B.* And if he the sayd *C.D.* shall refuse thus to do, that then immediatly you him safely conuey, or cause to be safely conueyed, to our next prison in the sayd County, there to remaine vntil he shal willingly do the same: So that he may be before our said Iustices, at the said next generall Sessions of the Peace to be holden at *M.* aforesayd, then and there to answere vnto vs for his contẽpt in this behalfe. And see, that you certifie your doing in the premisses to our said Iustices at the said Sessions, bringing then thither this Precept with you. Witnesse the said *R. B. at Wrotham* aforesaid, the fourth day of August, &c.

Or thus, in the name of the Iuſtice himſelfe, *Mutatis mutandis.*

ROB. BYNG. Eſquire, one of the Iuſtices of the Peace of our Soueraigne Lady the Queene, within the ſayde Countie, to the Shirife, &c. greeting. *Kanc.*

Foraſmuch as *A.B.* &c. hath perſonally come before me, &c. Theſe ſhall be therefore, on the behalfe, and in the name of our ſayde ſoueraigne Lady, to commaund you ioyntly, &c. to come before me, or one other of her Maieſties ſayd Iuſtices of the Peace, in the ſayd Countie, &c. Giuen vnder my Seale, at *W.* aforeſayd, &c.

It is meete that the Precept for the Peace doe expreſly contayne the cauſe of the Peace within it: for otherwiſe, how can the Officer or Partie, take knowledge that Suertie muſt be prouided for it? Yea (by the way let me ſay it) euery Precept (made by a Iuſtice of the Peace) ought to comprehend the ſpeciall matter vpon which it proceedeth: euen as all the Queenes Writs doe beare their proper cauſe in their mouth with them. And as for the Forme that is now cõmonly vſed (to anſwere to ſuch things as ſhall be obiected) it was not fetched out of the old learned Precedents, but lately brought in by ſuch as eyther knewe not, or cared not, what they writ.

The Warrant of the Peace is the better alſo,

also, if it beare Date of the place where it was made: for if a man be to plead such a Precept, for his excuse in an Action of false imprisonment brought against him, hee ought (in his Plea) to shew the place where the Warrant was made 14.H.8.18.

And this Precept may also be directed to any indifferent person, by name, though he be no Officer at all: for so it seemeth to bee permitted in the Oath of the Iustices of the Peace, and so is that Booke also 14.H.8.18.

The which libertie the Iustices in some Shires doe vse to take, accustomably directing their preceptes to priuate men of their owne election and choyce: But yet I take our *Kentish* course to be the safer way, whence we commonly write to the sworne Constables and Borsholders onely.

The commaunding of Suertie of the Peace hath thus appeared: and now the execution, and bringing of that commandement to effect, must next be disclosed.

How the commaundement of the *Peace* shall be executed.

The execution of this Precept standeth partly in seruing the Precept it selfe: and partly in taking the Recognusance, if the partie do come with Suerties, and if that there be no let in the way.

And because (for the most part) there is but one and the same maner of doing, whether the Precept come from the Iustice of the Peace, as he

he is a Minister, or as he is a Iudge, I also will handle them together, noting by the way, those fewe differences that shall arise betweene them.

If such a Precept be made ioyntly to twaine, yet the one alone may serue it: If it be directed to the Shirife, then hee may command his Bailife, Vndershirife, or other sworne and knowen Officer, to serue it, without writing any Precept. But if he will command another man (that is no such Officer) to serue it, he must giue him a written Precept: for otherwise a Writ of false imprisonment will lie for the Arrest. And if it be directed to the Bailife, or to a seruaunt of a Iustice of the Peace, or other stranger, they must serue it themselues: for they can command none other to doe it, neither by worde, nor Precept, Marrow. The seruing of the *Precept* for the Peace.

A sworne and knowen Officer needeth not to shew this Warrant, when he doth serue it vpon a man: 8.E.4.14: & 20.H.7.13.&c. for his Office doth (after a sort) authorize him. But if the Iustice will set his seruaunt to serue it, that seruant must shew the Warrant, if the partie demand it: and otherwise the partie may make resistance: 8.E.4.14.

A Iustice of the Peace (sayeth M. Brooke, *Titulo* Peace 9.) may make this Warrant returnable before himselfe, and the Bailife needeth not to carie the partie before any other Iustice:

But

But Iudge Fineux (21.H.7.20.) ſaith, that if a Iuſtice of the Peace doe make a Warrant of the Peace *Ex Officio*, (that is, without any Writ of *Supplicauit* awarded) then the party may chooſe to appeare before him, or any other Iuſtice in the Shire: and that he ſhall puniſh the Bailife in falſe impriſonment, if he doe otherwiſe compel him: Otherwiſe it is in the execution of the Writ of *Supplicauit*: for he alone to whoſe hands it firſt commeth, is authorized to execute and returne that Writ. And thereupon M. Fitz. (in his Nat. Bre. Fol. 81.) affirmeth, that if ſuch a Writ of *Supplicauit* be deliuered to the Shirife, then he may both execute it alone, and alſo take Suertie by Recognuſance, which otherwiſe (being but a Conſeruator) he could not doe, becauſe the Writ doth ſo enable him, yet Littleton (9. E.4. 31.) is to the contrary.

The Officer ought alſo to require the party to come and find Suerty of the peace before that hee doe arreſt him by the opinion 5.E.4. 13: And in trueth, the common forme of the Precept is, And if he refuſe, &c. then he ſhall conuey him to the Gaole: and therefore, if he yeeld to come and to find Suertie, the Officer may neyther abſolutely arreſt him, nor take any fee of him.

And this may be the cauſe, that when one appeareth vpon ſuch a Warrant before the Iuſtice of Peace, the Iuſtice needeth not to demaund

maund Suerty of him, but may commit him, if he doe not offer Suerty: 4.H.7.9.

If a Bailife doe arrest a man for the peace, before that he haue any Warrant, and then afterward doe procure a Warrant for it: this neuertheleſſe is vnlawfully done, and will not excuſe him in an action of falſe impriſonment: *ibidem*: But if the Bailife doe cauſe one by force of a Warrant to come and finde Suerty of the Peace, and when the partie is brought, the Iuſtice will not bind him, yet the Bailife is excuſed. 21.H.7.22.

If ſuertie of the Peace bee required at the handes of a Iuſtice of the Peace (that dwelleth out of the Countie) againſt a man within the County, the Iuſtice may grant a Precept to be ſerued in the County: but when the partie ſhal be thereupon warned, and commaunded to finde Suerty, the Officer may not cary him out of the County to the Iuſtice of Peace that made the Warrant. Mar: For, a Iuſtice of the Peace hath no authoritie, but in the County where he is Iuſtice. 13.E.4.8. & *Comment. Plowd. 37.* and therefore it may be doubted alſo, whether ſuch a Warrant be good, or no.

The Caſe was there, that a Iuſtice of Peace in one Countie, purſued a Felon, and tooke him in an other Countie, whereupon it was holden, that he ought to bee committed to the Gaole of the Countie wherein hee was taken, and

and not of the Countie, wherein he which tooke him was a Iustice: for that, he (being out of his Countie) had no more authoritie, then a priuate man. But yet, the Bailife may not dispute the sufficiencie, or insufficiencie of such a Warrant, because hee that awardeth it is a Iudge of Record: 14.H.8.18.

That which hath bene hitherto sayd, is of the execution of the former part of the Warrant for the Peace, that is to say, to warne and cause the partie to come and finde Suertie for the Peace: But if it fall out, that hee refuse to come and put in such Suertie, then may the Officer, by vertue of his Warrant conuey him to prison. For (if you remember) the words are, And if he shall refuse, then, &c. And if hee adde resistance to this refusal, and make assault vpon the Officer, then may that Officer iustifie the beating, or hurting of him. 21.H.7.39. Fineux. But, for our better proceeding, let vs heere consider what an Arrest is.

What an Arrest is.

Budee in his Greeke Commentaries, is of the opinion, that the French worde (Arrest) which with them signifieth a Decree, or Iudgment of a Court, took beginning of the Greeke ἀρεσκον that is, *placitum*: and (as wee might say) the pleasure (or will) of a Court.

And albeit that it were not out of our way, to thinke that it is called Arrest, because it stayeth (or resteth) the partie: yet I beleeue rather that

that we receyued the name from the Normane Lawes, because wee vse it in the same sense with them: For commonly (with vs) an Arrest is taken for the execution of the commaundement of some Court, or of some Officer in Iustice. But howsoeuer the name began, An Arrest is a certaine restraint of a mans person, depriuing it of his owne will and liberty, and binding it to become obedient to the will of the Lawe: and it may be called the beginning of Imprisonment. The Preceptes and Writs of the higher Courts of Lawe, doe vse to expresse it by two sundry wordes, as *Capias* and *Attachias*, which signifie, to take (or catch) hold of a man. But this our Precept noteth it by the wordes *Duci facias*, (cause him to be conueied, &c.) for that the Officer hath (after a sort) taken him before, in that he commeth vnto him, and requireth him to goe to some Iustice of the Peace.

To this Arrest, all Lay persons (vnder the degree of Lords or Peeres of the Realme) bee subiect: And Ecclesiasticall persons (if they be not attendant vpon diuine seruice) may bee arrested for the Peace also, Mar.

The ende therefore is, that if the partie will not come to find Suerty of the Peace, the Officer may (vpon that Warrant) arrest and cary him to the Gaole, where hee shall remaine, vntill that he will freely offer, and find it.

Deliuerie of him that is impriſoned, for refuſing to find *Suertie.*

And here it is good to bee enquired, whether the Releaſe (or Death) of him that prayed the Peace, will not bee ſufficient cauſe to deliuer ſuch a priſoner: and if it ſhall be, then by what order he ſhall be deliuered. For, as it ſeemeth to ſome, that any Iuſtice of the Peace may (vpon his offer) take the Suertie, and deliuer him: ſo it may be ſome doubt, whether hee may bee deliuered (vpon the death, or releaſe of the partie) without the helpe of a Seſſions, or Gaole deliuerie.

It appeareth 4.E.4.16. and by the opinion of Brian, 2.H.7.2.& 4. that if ſuch an impriſoned perſon had a ſuite hanging in the Common place aforehand, he might by a Writ of Priuilege bee diſcharged of the impriſonment, if the partie, at whoſe ſute hee was arreſted for the Peace, were not ready in Court at the day of the returne of the Writ when he ſhould be called to pray there againe the Suertie of the Peace againſt him: and he ſayth, that it had bin alwaies their common courſe ſo to doe: but other there were of a contrary opinion.

And it ſeemeth a hard caſe, that without any ſufficient notice of ſuch a remouing of the partie, a man ſhoulde bee defeated of his Suertie for the Peace.

To what Iuſtice he that is arreſted, may goe.

But nowe, if the partie ſhall yeelde to finde Suertie of the Peace, then may hee bee at his libertie (if the Precept proceede *Ex officio*, and without

without the Writ of *Supplicauit*) to goe to any other Iustice of the Peace, to offer this Suertie. For such (as I tolde you before) is the opinion of Iudge Fineux. 21.H.7.20. though Master Brooke (Peace 9.and Faux Imprison. 11.) liketh better to giue the election thereof vnto the officer.

And I doe remember, that a Iustice of the Peace was (by order in the Starre Chamber) thrust out of the Commission, onely because he refused to accept Suertie of the Peace, offered vnto him, vpon a Warrant awarded by one his fellowe Iustice, to whome the partie (as hee alleaged) durst not go to giue it, for feare that hee would execute vpon him the malice that he bare against him.

But here againe, the officer had neede to bee aduised: least he find much trouble in following the partie, whither hee shall please to lead him. For, as there may bee iust causes to yeeld vnto the request of a man that shall dislike to bee brought before that Iustice which gaue out the Warrant, either for some matter of priuate displeasure, or for the great distance of his dwelling, or for such other reason: So yet (without good allegation made) I allow not that the Officer shal be drawen out of the Diuision and Limit where both he and the partie do dwel. For in so doing, the officer, and not the offender, may seeme to be punished.

Hereupon also it happeneth often, that such persons (chooſing rather to bee bound by any other, then by him that maketh the Warrant) doe offer themselues, and doe become bound before some other Iustice: and doe withall procure a *Superſedeas* from him to be discharged of any other Arrest to be made vpon them. Yea, and many times (hearing of such Preceptes, and misliking to be bound in the Countrie) they goe vp to *Weſtminſter*, and to giue Suertie of the Peace there, eyther in the Kings Bench for a time onely (as the manner of that Court is) or in the Chauncery for euer, or for a time (as they vse it) and doe thereupon procure a *Superſedeas* from the Court where they are bound, to close the hands of the country Iustices. And therfore it is not amisse to say somwhat of this matter of *Superſedeas* also.

Superſed. by a Iust. of Peace.

If therefore, a Iustice of the Peace, will (by a *Superſedeas*) discharge a precept for the Peace, (awarded by his fellow Iustice, by vertue of his office, and not by force of a *Supplicauit*, which is of an higher nature and cannot be so auoyded) then shall he doe well, to take the Recognusance after the selfe same sort, in all poynts, as the forme of the former Precept doth require.

For, as it is good reason, that (hauing taken Suertie for the Peace) hee may by his *Superſedeas* saue the partie from finding other

Suertie

Suertie for the ſame cauſe: So is it not reaſonable, that he ſhould proceede otherwiſe then according to the firſt Precept, and thereby diſcharge a matter of Record that was made by one of equall authoritie with himſelfe. Fitzh. Fol.9.

And this *Superſedeas* (ſent by a Iuſtice of the Peace) is ſufficient, although it neyther name the Suerties, nor contayne the ſummes in which they are bound: But yet, it is the better forme to expreſſe them both: as well becauſe the higher Courts vſe ſo to doe, as alſo that if the Bailife, Conſtable, or other Officer (to whom it is deliuered) be called at the next Seſſions by the ſuite of him that ſought to haue the Peace, to ſhew how he hath executed his Warrant, and doe come in and ſhewe foorth the *Superſedeas*, then the partie that is bound may bee called thereupon at the day that appeareth to be limitted vnto him by the *Superſedeas*: for it is vnder the ſeale of a Iuſtice, and doeth teſtifie that the partie is bound, and hath found ſuertie, to appeare at a certayne day: and if he make default, that (being Recorded) ſhall bee ſufficient to cauſe him to forfeite the penaltie of the Recognuſance, although the Iuſtice that awarded it, ſhall omit to bring in the Recognuſance it ſelfe, according as hee ought now to doe by the Statute, 3. H. 7. cap. 1.

And this may be gathered vpon the opinion

2.H.7.1. and may alſo be ſeene by this forme of the *Superſedeas* here vnder written.

The forme of a *Superſedeas*, by a *Iuſtice* of the Peace.

WILLIAM SEDLEY Eſquier, one of the Iuſtices of the Peace of our Soueraigne Lady the Queenes Maieſtie within the County of *Kent*, to the Shirife, Bailfes, Conſtables, Borſholders, and other the faithfull miniſters, and ſubiects of our ſayde Soueraigne Lady within the ſayd Countie, and to euery of them ſendeth greeting: Foraſmuch as *A.B.* of &c. Yeoman hath perſonally come before me at *Southfleete*, &c. and hath found ſufficient ſuertie, that is to ſay, *C.D.* and *E.F.* &c. Yeomen, eyther of the which hath vndertaken for the ſayd *A. B.* vnder the paine of xx.li. and he the ſayd *A.B.* hath vndertaken for himſelfe vnder the paine of xl.li. that he the ſayd *A.B.* ſhall well, and truely keepe the Peace, towards our ſayd Soueraigne Lady, and all her liege people, and ſpecially towards *G.H.* &c. Yeoman, and alſo that hee ſhall perſonally appeare before the Iuſtices of the Peace of our ſayde Soueraigne Lady within the ſayde Countie, at the next generall Seſſions of the Peace to bee holden at *M.* there: Therefore, on the behalfe of our ſayde ſoueraigne Lady, I commaund you, and euery of you, that yee vtterly forbeare and ſurceaſe, to arreſt, take, impriſon, or otherwiſe by any meanes

meanes (for the saide occasion) to molest, the said *A.B.* And if you haue (for the sayd occasion, and for none other) taken, or imprisoned him, that then you do cause him to be deliuered and set at libertie, without further delay. Yeouen at *Southfleet* aforesaid vnder my seale, this last day of Iuly, &c.

This *Supersedeas* may also be in the name of the Queene, and vnder the Teste of the Iustice of the Peace, thus:

ELIZABETH by the grace of God, &c. To the Shirife, &c. greeting: Forasmuch as *A. B.* hath come before *Thomas Fane* Esquier, one of our Iustices of Peace within our sayde Countie, and hath found, &c. Wee therefore command you and euery of you, that yee forbeare, &c. Witnesse the said *T.F.* at, &c.

Thus much of the *Supersedeas* issuing from a Iustice of the Peace the which ought to withhold and stay the proceeding of his fellow Iusticesin the said cause: insomuch that if any Officer by any of their Warrants, hauing this *Supersedeas* deliuered vnto him, wil neuertheleſſe vrge the party to find new Suerty for the Peace, he may refuse to giue it and (if he be committed to prison for such his refusall) hee may (as I thinke) haue this his action of False imprisonment against the Officer vpon the same.

Superſedeas out of an *higher Court.*

I reade (21.E.4.40.) that a *Superſedeas* proceeding out of the Chauncery, will diſcharge a Suertie of Peace taken before the Iuſtices in the Bench of the King. Much more then, will a *Superſedeas*, ſent out of the Chancerie, or the Kings Bench, diſcharge a Precept for the Peace that is awarded from any inferior Iuſtice of the Peace. And if the Iuſtice of Peace, to whom a *Superſedeas* out of ſuch an high Court ſhall be deliuered, will not thereupon ſurceaſe, an Attachment may be awarded againſt him for his contempt, and he may be impriſoned, and fined for it.

It is good counſell therefore, that M. Fitz (in his Nat. Br. Fol. 238.) giueth, where he willeth the Iuſtices of Peace (after ſuch a *Superſedeas* receyued) to forbeare to make any Warrant to arreſt the partie: and if they haue awarded it, then to make their owne *Superſedeas* to the Shirife and other Officers, thereby commaunding them to ſurceaſe to put it in execution.

The taking of the *Recognuſance* for the Peace.

This impediment of *Superſedeas*, (lying after this ſort, as you haue ſeene, in the way to the Iuſtice of the Peace) thus paſſed ouer, let vs nowe ſuppoſe the partie ſerued with the Precept, to come before ſome Iuſtice of the Peace: & let vs enter into the taking of the Recognuſance of him: for that is one part of the execution of the Warrant for the Peace, & may

not

doe ſeruice, whether the partie come to him that made the Precept, or goe to any other.

If the Iuſtice of the Peace deale in this matter, as a Iudge, and by vertue of his Commiſſion, then the number of the Suerties, the ſumme of their bonde, their ſufficiencie in goodes, (or lands) the time howe long the partie ſhall bee bound, and ſuch other circumſtances, are referred wholly to his owne conſideration: and if he be deceiued in the abilitie of the Suerties, hee may compell the partie to put in others: Mar. For the auoyding of which deceit alſo, the Iuſtices of the Common Place (7.H.6.25.) did examine the abilitie of the Suerties vpon their Oaths, &c.

The commune maner is, to take two Suerties, beſides the partie himſelfe: and good reaſon it is that thoſe ſhoulde bee ſuch as haue their names regiſtred in the Booke of Subſidie: for albeit that here and there ſome may be ſufficient that were not aſſeſſed to the Queene, yet it ſtandeth not well together, that hee ſhoulde become bound to the Prince in x. or xx pounds, that was not in the Subſidie found worth any thing at al. And, the caſe may be ſuch, that Suerties only, and not the principal partie, ſhal giue the Bond. For, if the Peace be prayed againſt a Wife, or an Infant vnder the yeares of diſcretion, it ſeemeth, that they ſhall be bound by their Suerties onely, as was the Monke, or Chanon, 36.H.6.23.

But

But if the Iuſtice of Peace ſhal command the Peace as a Miniſter in execution of the Writ of *Supplicauit*, then muſt he behaue himſelfe as the Writte it ſelfe directeth him: and that hath not bene alwayes after one maner.

For ſome forme commaundeth him to take ſufficient Manucaptors (in any paine or ſumme to be reaſonably ſet by himſelfe) ſo that he will be anſwerable for it at his owne peril: and ſome willeth him to take ſufficient Suertie, in a ſumme certainely preſcribed vnto him, as a hundred pounds in al, or euery of them in twenty pounds, as it may bee ſeene at large, in the Regiſter of Writs. Fo. 89.

A Iuſtice of the Peace (ſayeth M. Marrow) may take this Suertie by a Gage, or Pledge, which ſhall not be forfeited thereby, but pauned onely, ſo that the partie ſhall (vnder a certayne paine) keepe the Peace, which paine he ſhall forfeite, if hee breake the Peace. And (by his opinion) a Iuſtice of the Peace may alſo take this Suertie by an obligation made to himſelfe, by the name of Iuſtice of the Peace: For ſo ſhall it be (ſaith he) *ad vſum Domini Regis:* But if it were made vnto him without his name of Iuſtice of the Peace, that then it could not be to the vſe of the King, vnleſſe it had the words, *ad vſum Domini Regis:* M. Fitzh. on the other ſide (in his Nat. Bre. Fo. 81.) holdeth, that ſuch an Obligation taken to the King, by a Iuſtice of the Peace,

is

is nothing worth: for a man cannot be bound to the King (saith he) but only by matter of Record, vnlesse hee will afterwarde come into a Court of Record, and confesse it to be his deede, and pray that it may be Enrolled there.

But the new Statute (33. H. 8. cap. 39.) hath made a plaine law in these cases, and willeth, that al Obligations and Specialities (made for any cause touching the King) shalbe made in his owne name, by the wordes, *Domino Regi*, and to none other person to his vse. And it ordayneth further, that such bonds shal be of the nature of a Statute Staple: and that if any person take any obligation otherwise, he shall be imprisoned at the pleasure of the King, or of his honorable Counsell.

The safe way therefore, is to take this Suertie by Recognusance, as is commonly vsed, and that also by the wordes *Dominæ Reginæ*: and then (vpon the forfeiture thereof) the Queene shal haue execution accordingly.

Now, if a Recognusance be meant to bee taken for the Peace, by a Iustice of the Peace, and yet doe not containe within it (or in the condition thereof) that it was taken For the keeping of the Peace: it seemeth to be voyde, as being then taken *Coram non Iudice:* because a Iustice of the Peace hath not power to take Recognusances generally, but for matters concerning his Office specially. And therefore M. Marrow addeth further,

further, that if the Recognusance be, That the Recognusor shall not maime, nor beate A. yet it is not good, because it ought to bee For the keeping of the Peace, and that may be broken otherwise, as by burning the house of A. or by such like misdemeanour.

Although this recognusance doe not comprehend any time of apparance, but be generally to keepe the Peace: yet is it good in law (saith M. Marrow) because the chiefe Scope is, the keeping of the Peace, and the time is referred to the discretion of the Iustice: But, as it was mooued (2. H. 7. Fol. 1.) whether the Iustice of Peace ought to bring in the recognusance to the *Custos Rotulorum*, that the partie might be called vpon it: So, by the Statute (3. H. 7. cap. 1.) it is plainly enacted, that euery recognusance (taken for the Peace) shal be certified at the next Sessions of the Peace, that the partie may thereby be called, and his default (if any happen) may be recorded. Whereby it seemeth, that euerie recognusance of the Peace, ought to conteyne the apparance of the partie at the next Sessions.

Recog. to be certified at the next Sessions of the Peace. 3. H. 7. cap. 1.

And otherwise, there may be some mischiefe. For if the partie shall not so appeare, he is at libertie (without a new arrest) and not forthcomming to be bound ouer, if it be so required.

And (by M. Marrow) if the recognusance conteine a day of apparance, and yet haue no person named, before whom the partie so boun-

den

den ſhal appeare: then may hee appeare where hee will before that Iuſtice of the Peace which tooke the recognuſance of him.

Againe, if the Recognuſance bee in xx. li. to bee leuied onely of the goods, or onely of the lands, of the Recognuſor: it ſeemeth to be good ynough: for peraduenture the wordes, Of the goods onely, or Landes onely, ſhall bee taken to bee voyde, ſeeing that the very acknowledgement of the ſumme of twentie pounde (before a Iudge enabled to take it) both maketh it a debt, and implieth the ordinarie meane of Lawe to come vnto it.

So, if this Recognuſance bee taken, To keepe the Peace againſt one ſpeciall partie only, M. Marrow thinketh it good: but aduiſe wel of it, for the words in the Commiſſion of the Peace be, to take ſuertie, *Erga nos, & populum noſtrum.*

Many other wayes there bee, after which the Iuſtice of Peace may walke in taking of this kinde of Recognuſance: which, howſoeuer they may fall out ſufficient to binde the partie vnto the Queene, yet peraduenture they ſhall not excuſe our Iuſtice of the Peace from checke and blame: and therefore, for the better eſchewing of all errour in himſelfe, and hard dealing againſt the party, I wiſh him to goe *Regia via*, following the receiued forme, which I take to be thus:

Memo-

The forme of a *Recognisance* for the Peace.

MEmorandum, quod 4. die Iulij, Anno regni Dominæ nostræ Elizab. dei gratia, &c. 29. R.P. de E. in comitatu prædict. Yeoman, in propria persona sua venit coram me I. Leuison Milite, vno Iusticiariorum dictæ Dominæ Reginæ ad pacem in dicto comitatu conseruandam assignatorum, & assumpsit pro seipso sub pœna xx. li. Et H. I. de L. in comitatu prædict. Yeoman: Et I.F. de M. in eodem comitatu Husbandman, tunc & ibidem in propriis personis suis similiter venerunt, & manuceperunt pro prædicto R.P. (viz.) quilibet eorum separatim sub pœna 100. solid. quod idem R.P. personaliter comparebit coram Iusticiarijs dictæ Dominæ Reg: ad pacem ad proximam generalem Sessionem pacis in comitatu prædicto apud Maidstone tenendam, ad faciendum & recipiendum quod ei per curiam tunc & ibidem iniungetur: Et quod ipse interim pacem dictæ Dominæ Reg: custodiet, erga ipsam Dominam Reg. & cunctum populum suum, & præcipuè versus M.N. de Ightham prædicta Yeoman, Et quod damnum vel malum aliquod corporale aut grauamen præfato M.N. (vt alicui de populo, dicto Dom. Regi. quod in læsionẽ aut perturbationẽ pacis ipsius Dominæ Reg: cedere valeat) quouismodo non faciet, nec fieri procurabit: Quam quidem summam xx. libr. prædict. R.P. & quilibet manucaptorum prædictorum prædictas separales summas 100. solid. recognouerunt se debere dictæ Dom. Reginæ, de terris & tenemen-

tis,

tis, bonis & catallis ſuis, quorumlibet & cuiuſlibet eorum ad opus dictæ Dom. Reg. hæredum & ſucceſſorum ſuorum fieri & leuari, ad quorumcúnque manus deuenerint, ſi contigerit ipſum R.P. *præmiſſa vel eorum aliquod in aliquo infringere, & inde legitimo modo conuinci. In cuius rei teſtimonium, ego prædictus* I. L. *ſigillum meum apposui. Dat.*

Or thus, a litle different in forme.

Memorandum quod 4. die &c. A.B. de Ightham *&c. Et* C.D. *de eadem* Yeomen, *venerunt coram me* G. M. *&c. & Manuceperunt pro* I.S. *nuper de* L. *&c. quod ipſe perſonaliter comparebit coram me præfato* G.M. *vel ſocijs meis Iuſticiarijs pacis Dominæ Reg: ad proximam generalem Seſſionem, &c. Et quod ipſe interim geret pacem erga cunctum populum Domi. Reginæ, & præcipue erga* R.B. *&c. (viz. quilibet manucaptorum prædictorum ſub pœna xx. libr. Et prædictus* I.S. *aſſumpſit pro ſeipſo ſub pœna 40. libr. Quam quidem ſummam 40. libr. prædictus* I.S. *& quilibet manucaptorum prædictorum dictam ſummam 20 libr. recognouerunt.*

And this may be well done alſo, by a ſingle Recognuſance in Latine, with a condition added or endorced in Engliſh, for the keeping of the Peace, and for the day and place of the parties apparance at the Quarter Seſſions.

The

What shall be done, with the *Recognisance.*

The Suertie (or Recognisance) of the Peace, thus commanded, and accomplished, order draweth mee to disclose, how the Iustice of the Peace is to demeane himselfe with it.

The returne of a *Supplicauit.*

If the Suertie were taken, by vertue of a *Supplicauit*, then must the Iustice of the Peace (beeing in this case but a Minister) make retourne of the Writ and Certificate of his doing, into the Court from whence the *Supplicauit* did proceed for helpe wherein, I will set him downe that, which I haue seene put in practise vpon a Writ of that kinde.

First let him note vpon the backe of the *Supplicauit* thus:

Executio istius Breuis, patet in quadam Schedula eidem Breui annexa.

Then may that Scedule be thus:

EGo Wilhelmus Lambard, *vnus custodum pacis Dominæ Reginæ in comitatu Kanciæ, certifico in cancellarium dictæ Dominæ Reg. me virtute istius breuis (mihi per* A.B. *in eodem breui nominatum, primò deliberati) personaliter corã me (tali die & loco) venire feciſſe Tho. R. in dicto breui nominatum, ac eundem Tho: ad sufficientem securitatem, & manucaptores pacis inueniendum, secundum formam dicti breuis, viz.* (as the Writte shall appoynt, which is of diuers formes, as I tolde you before) *compuliſſe: In cuius rei testimonium huic præsenti Certificationi*

mea

meæ ſigillum meum appoſui: Dat. apud D. prædictam, in comitatu prædicto 5. die Iulij anno regni dictæ Dominæ noſtræ Elizab. dei gratia, &c.

The returne of a *Certiorari*.

And if a *Certiorari* bee directed out of the Chancerie to the Iuſtice of the Peace for remouing this Recognuſance, becauſe it was not ſent vp together with the Certificate, (as there was no neceſſitie that it ſhould) then that Writ alſo may be thus anſwered.

Upon the backe of the Writ, thus:

VIrtute iſtius breuis ego W. L. *vnus cuſtodum pacis Dominæ Reginæ in comitatu K. tenorem ſecuritatis pacis (vnde infra fit mentio) dictæ dominæ Reginæ in Cancellariam ſuam ſub ſigillo meo diſtinctè & apertè mitto, prout patet in Schedula huic breui conſuta.*

The which Scedule may be thus:

Memorandum, quod 20. die Iun. &c. (reciting the whole Recognuſance to the ende thereof.)

Then, *In cuius rei teſtimonium ego prædictus* W. L. *ſigillum meum appoſui: Dat. &c.*

If the *Supplicauit* be againſt diuers, and the partie will releaſe his prayer of the Peace againſt one of them, then that releaſe ought to be certified for him, and the Writ muſt be ſerued for the reſt, or els, *non eſt inuentus*, may be certified for him, and the Writ may bee ſerued for the reſt.

And this forme may ſerue alſo, where a

Certiorari is brought to a Iustice of the Peace, to remoue a Recognusance of the Peace that was taken by him *Ex officio*, without any such Writ of *Supplicauit*: as you may reade in the Register. Fol. 90.

But if the Recognusance be not thus remoued from the Iustice of the Peace, then may hee keepe it til the *Certiorari* come to him for it.

The certifying of the *Recognisance* and releasse to the Sessions.

On the other side, if the Recognusance were taken by vertue of his Office, then (whether it were by his owne discretion, or at the suite and desire of another) hee must sende or bring it in at the next Sessions, to the *Custos Rotulorum*: so that the Recognusor may bee there called, and if hee make default, then the same default to be recorded, as is appointed by the statute 3. H. 7. ca. 1.

And although the partie that praied the peace doe not then appeare at those Sessions, yet is not the default of the Recognusor discharged thereby. 39. H. 6. 26. Bro. Suertie 10. and the Iustices may then of discretion binde him ouer: which also they ordinarily doe in some places, for two or three Sessions together.

And here againe, some difficulties doe arise, that may make the Iustice of Peace sometimes doubtfull, how to hold, certifie, or send in, the Recognusance. For sundry meanes there are, by which this Recognusance of the peace may (before anie forfeyture thereof made) bee after a

sort discharged, and therefore let vs consider them apart, and withall giue some aduise what shall be best to doe therein.

The Iustice of Peace, that of his owne motion compelleth one to giue Suertie of the Peace vntil a certaine day, may by like discretion before that day release it. Fitzh. Fo. 10. And if it should fortune to be made to keepe the Peace generally, without any day limited, then wold it be construed that it was to continue during the life of the partie bound, and then coulde no man release it, by Fitz. & 21. E. 4. 40. If (at the suit of A.) the Recognusance should be taken, To keepe the Peace against A. onely and none other: then may A. release it, either before the same Iustice, or any other that will certifie the Release, which certificate (being of Record) will discharge it: but to release it by his deed, is nothing worth. Marrow. Release of the *Peace* by a *Iustice* of Peace.

And so, if it be *versus cunctum populum, & præcipuè versus* A: yet may A. after that sort release it, as the Lawe is now taken in our time, cleane against the opinion of the Booke, 21. E. 4. 40. For, albeit that it seeme popular, so that all others should haue equal interest with A. in it, yet was it taken specially (say they) for his safetie, as the word *Præcipuè* doth argue plaine. And M. Brooke saith truly that it is so vsed at this day. Peace 17.

But since the recognusance is made to the//

Queene, and not to the partie (though for his securitie) and seeing also that by such release, hee that ought to remaine bounden shall be at libertie and may doe harme, whilest (entending to beate B.) hee may collude with A. both to pray and pardon the Recognusance for the Peace: I could for my part like better, to mainteine that old, then to imitate this newe opinion.

And now, whether the Recognusance bee at the suite of A: or by the meere motion of the Iustice in the behalfe of A: the Queene can not release or pardon it, before that it be forfeited: both for the mischiefe that may come to A. thereby, (by Fineux opinion 11. H. 7. 12.) and for that the Recognusance being taken according to the common forme, as is before set downe, it is not properly a debt to the Queene, until it be forfeyted, as appeareth 11. H. 4. 43: & 1. H. 7. 10. But being once forfeited, then she (and none other) may pardon the forfeiture: for then it is become her proper debt.

Now in these cases, the Recognusance may not be cancelled: lest peraduenture the Peace was broken (and consequently the Recognusance forfeited) before the time of the Release made, Fitzh. Fo. 10.

And therefore it shall be best, in such cases to send to the Sessions, the Recognusance and the Release togither: and that may be done in a few Lines vnder the Recognusance it selfe.

First

First for the releafe of the Iuftice, thus: *Ego præfatus* Ioannes Leueſon Miles *qui ſupra nominatum* A. B. *ad prædictam ſecuritatem pacis inueniendam ex mea diſcretione compuli, eandem ſecuritatem pacis (quantum in me eſt) ex mea diſcretione 1. die Auguſt. &c. remiſi & relaxaui: In cuius rei teſtimonium, huic præſenti relaxationi mea ſigillum meum appoſui. Dat. &c.*

And for the releafe of the Partie before the ſame Iuſtice that tooke it, thus:

Releaſe by the partie.

MEmorandum, quod primo die Auguſti, &c. præfatus C.D. *venit coram me præfato Thoma Fludd* Milite *& gratis remiſit & relaxauit (quantum in ſe eſt) prædictam ſecuritatem pacis per ipſum coram me verſus ſupra nominatum* A.B. *petitam. In cuius rei teſtimonium, Ego præfat.* I.F. *&c. Dat. &c.*

But if the releafe bee made (as ſome thinke it may) before another Iuſtice which hath not the Recognuſance, then this latter forme muſt be framed accordingly.

Certifying of the *Recognuſance*, & *Superſedeas.*

Furthermore, if a man be bound before a Iuſtice of the Peace, to keepe the Peace againſt all the Queenes people, and to appeare at the next Quarter Seſſions: and doe afterward procure a *Superſedeas* out of the Chancerie, teſtifying that hee hath found ſuertie there againſt all the Queens people for euer: this will diſcharge his apparance at the Seſſions: becauſe the

graunting of this *Superſedeas* is the Acte of the Queene, which is the fountaine of Iuſtice, & controlleth al other deriued authorities. Fitz. Fol. 9.

But if that *Superſedeas* ſhould teſtifie, that he hath found Suertie in the Chancerie, onely vntill a certaine day (which day is after thoſe Seſſions) then M. Fitzh. thinketh, that his apparance at the Seſſions ſhall not bee diſcharged by the *Superſedeas*. In both theſe caſes alſo, I would aduiſe the Iuſtice of the Peace, to ſend in as well the Recognuſance as the *Superſedeas*, if it come to his hands: for peraduenture the Recognuſance was broken before the *Superſedeas* purchaſed: or, if it were not, yet he ſhal be excuſed, and the Recognuſor neuer a whit the more endangered thereby.

Certifying of the *Recognuſance*, though it be diſcharged by death.

Laſtly, the death of the Prince diſchargeth the Recognuſance of the Peace, 1. H. 7. 2. *Cur.* So doeth the death of the Recognuſor and ſo alſo doeth the death of him, at whoſe ſuite it was taken, if ſo bee, that it were made to keepe the Peace againſt him alone.

But, although the Mainpernours or Suerties die, yet the Recognuſance liueth: for, if the Peace bee broken after their deaths, their executors ſhalbe charged with it. 21. E. 4. 40. Neither (in the former caſes) is the Recognuſance diſcharged by ſuch death, if it were forfeited before.

And therefore, here againe my counſell is, to

ſend

ſend in the Recognuſance to the *Cuſtos Rotulorum:* for otherwiſe, howe ſhall the Iuſtice of Peace be aſſured, that hee doth not defraude the Queen of a forfeiture, that was grown vnto her?

Thus haue I both bounde the partie to the Peace, and conueyed the Recognuſance from the Iuſtice of the Peace to the *Cuſtos Rotulorum*, ready to bee called vpon at the Quarter Seſſions: So that I might forthwith proceede to treate of the good Abearing: But, becauſe I haue tolde you (out of M. Mar. and 21. E. 4. 40.) that if the Recognuſance of the Peace be forfeited, and that forfeiture be leuied, ſo that the Recognuſance is vtterly determined, yet (of Diſcretion) the partie is to bee compelled to finde new Suertie, or elſe to bee ſent to the priſon: becauſe it appeareth euidently, that hee hath broken the Peace: I take it now fit, to run ſwiftly ouer ſome fewe things that may enforme a Iuſtice of the Peace concerning ſuch forfeitures: to the end, that he may thereupon compell the offendor accordingly.

Cauſes of forfeiture, ſo that the partie ſhal be compelled to giue newe *Suerties.*

The Condition of this Recognuſance (of what good forme ſoeuer you make it) ſtandeth vpon two points: the one, for apparance at a time: the other, for keeping the Peace in the meane while. Of the firſt of theſe I haue ſayde ſomewhat already in this Chapter: concerning the ſecond point, this is generall, that whatſoeuer Act is a breach of the Peace, the doing

thereof doth also beget a forfeiture of the Recognusance that is made for keeping of the Peace. And what acts shal amount to a breach of the Peace, I will hereafter shew, in the next Chapter of this Booke, where I shall (to another end) haue meeter place for it. In the meane space, take thus much here.

If a man bee bounde to keepe the Peace against A: and doe afterwarde threaten A to his face, that hee will beate him: hee hath forfaited his Recognusance. And an Action of Trespasse lieth at the Common law, against him that shall threaten one to beate him: as appeareth in diuers Booke cases 33.H.6.18: 37.H.6.20. &c. and shall suppose it to be *Contra pacem*. But otherwise it is, if A bee not present at that threatning, by good opinion 18.E.4:28: yet, if (in the absence of A) he doth threaten, that he wil beate him, and then do afterward lie in awaite to beat him: he hath in that case also broken his Recognusance 22.E.4. 35. *Cur.*

Like forfeiture is it, if hee that is bound, doe but commaund or procure an other to breake the Peace vpon any man, or to do any other vnlawfull act against the Peace, if that it bee done in deede. 7.H.4.34. & Brooke *Tit.* Peace 20. *tempore* H.8.

Of the Suerty of the *good Abearing*, and where it lyeth.

And now for closing vp of this part (concerning the Preuention of the breach of the Peace) it remayneth, that I entreate of the Suertie of

of good Abearing: which is of great affinitie with that of the Peace, as being prouided for preseruation of the Peace, as that other is: for in the Commission of the Peace, they are both conueyed vnder this one tract of speach, (*ad securitatem de pace, vel de bono gestu suo, erga nos & populum nostrum inueniendum*) against such as doe threaten hurt to mens bodies, or Fire to their houses: which things are now commonly preuented by Suertie of the Peace onely.

And (2.H.7.2.) the Suertie of the good Abearing is set foorth to rest in this point chiefly, That a man demeane himself well, in his port, and company, doing nothing that may bee cause of the breach of the Peace, or of putting the people in feare, or trouble: and that it doth not consist in the obseruation of things that concerne not the Peace: And that it should differ from Suertie of the Peace, in this, that where the Peace is not broken without an affray, or batterie, or such like, this Suertie *de bono gestu*, may bee broken by the number of a mans company, or by his or their weapons, or harnesse. Herewithall also do certayne Precedents of the Kings Bench agree, which in Suertie of the good Abearing (taken at the sute of some one person) doe mingle the words, *A modo bene se geret erga Dominum Regem, & cunctum populum suum, & præcipuè erga* T.B. with those other words that are commonly put

in

in the Recognuſance for the Peace, as in the new Booke of Entrees, Fol. 416. any man may plainely ſee.

But all this notwithſtanding, mee thinketh that a man may reaſonably affirme, that the Suertie of good Abearing, ſhould not be reſtrained to ſo narrow bounds.

For firſt, the Statute (34. E. 3. cap. 1.) enableth the Wardeins of the Peace, to take of all them that bee not of good fame (where they ſhalbe found) ſufficient ſuertie and mainpriſe of their good Abearing towards the King and his people. So that, if a man be defamed, hee may by vertue hereof be bound to his good Behauiour, at the diſcretion of the Wardeins and Iuſtices of the Peace. And I once receiued a Writ out of the Chauncerie, directed *Cuſtodibus pacis ac vicecomiti, & eorum cuilibet*, and grounded vpon the ſame Statute, for the binding of a man with Suerties, *quod ipſi boni geſtus & fame de cætero erit, & quod nihil in contrariũ Statuti prædicti quouiſmodo attemptabit &c.* wherin I proceeded as a Miniſter only. But the doubt reſteth in this, to vnderſtand concerning what matters this defamation muſt be: and that (as I thinke) may be partly gathered out of the ſayde Statute alſo. For, after it hath firſt giuen power to the Wardens of the Peace, to arreſt and chaſtiſe offendors (S. againſt the Peace, Riottors, and Barettors) then it willeth them, to enquire

quire of ſuch as hauing bin robbers beyõd the ſea, were come ouer hither,& would not labor as they were wont: & laſtly,it authorizeth them,to take Suerty of the good behauiour of ſuch as be defamed,namely(as I think)for any of thoſe former offences: for ſo it ſtandeth wel together,that they ſhal both puniſh ſuch as haue already ſo offended,& ſhal alſo prouide,that others ſhall not like wiſe offend. And euen ſo do they of the Chancery vnderſtand it,as by their *Superſedeas*,which I afterward receiued from them vpon that Writte (wherof I ſpake euen now) I did well perceyue.

Moreouer,it ſeemeth to me,that al theſe ſtatutes,firſt (1.Mar.Parl.1.cap.3.) which gaue this Suertie of good Abearing againſt ſuch as diſturbed a Preacher: then (5.Elizab.cap.21) that prouideth the ſame againſt the takers of fiſh in Pondes,or of Deere in Parkes: and laſtly (23.Eliz.ca.1.) which graunteth it againſt ſuch as wilfully abſent themſelues from the Church by the ſpace of 12. monethes: it ſeemeth(I ſay)that all theſe Statutes haue this one meaning,that a party (ſo bound) may afterward forfeit his Recognuſance, if hee eftſoones offend againſt the ſayd Statutes.

Beſides this,you may ſee(admitted by the opinion of the Court,13.H.7.10.)that if a man in the night ſeaſon,haunt a houſe that is ſuſpected for Bawderie, or vſe ſuſpicious company,

then

then may the Constable arrest him to find suertie of his good Abearing. For, Bawderie is not meerely a spirituall offence, but mixed, and sounding somewhat against the Peace of the land. 27.H.8.14.Fitz.& 1.H.7.6.

And therefore, it shall not bee amisse at this day (in my slender opinion) to graunt Suertie of the good Abearing against him that is suspected to haue begotten a Bastard child: to the end that he may be forth comming when it shall be borne: for otherwise, there will be no Putatiue father found, when that the two Iustices of Peace, shall (after the birth, and by vertue of the Statute. 18.El.cap.3.) come to take order for his punishment.

And if this medicine might lawfully be applied to those light persons also, that (without testimoniall, or other good Warrant) do flit out of one shire into another: not onely that euill of Bastardie, but many other mischiefs, might be, eyther preuented, or punished thereby.

But, for some aduise (by the way) in conceyuing rightly this Suspicion, marke what M. Bracton writeth: *Oritur suspicio ex fama, & ex fama & suspicione, oritur grauis presumptio: Fama verò suspicionem inducens, oriri debet apud bonos & graues, idque non semel, sed sæpius. Oritur etiam suspicio, ex facto præcedente, cui standum est donec probetur contrarium*: nam qui semel est malus, semper præsumitur esse malus,

malus, in eodem genere mali.

Now the further that this bond of the good Abearing doeth extend, the more regard there ought to bee taken in the awarding of it: and therefore although the Iustices of the Peace haue power to grant it, either by their own Discretion, or vpon the Complaint of others, euen as they may that of the Peace: yet I wish rather, that they do not command it, but only vpon sufficient cause seene to themselues, or vpon the sute and complaint of diuers, and the same very honest and credible persons.

And here, forasmuch as one Iustice of the Peace (alone, and out of the Sessions) may (both by the first Clause of the Commission, and also by the opinion of M. Fitzher. & 9. E. 4. 3.) graunt this suertie of the good Abearing, (although the common maner be, and two such Iustices doe ioyne in that doing, whereof also M. Fitzh. hath very good liking) I will not sticke to set forth the common formes, as well of the Precept, as of the Recognusance for the same: wherein, if I shall vse the names of two Iustices, you must take that to bee done according to the common fashion, and not of any necessitie in Law.

For, as I would more gladly vse the assistance of a fellowe Iustice in this behalfe, if I may conueniently haue it: so (if that may not be gotten) I would not greatly feare (when good cause

cauſe ſhall require) to vndertake the thing my ſelfe alone.

The Precept may haue this courſe.

The Precept of the good Abearing.

IVSTINIAN CHAMPENEY, and EDMOND COOKE, two of the Iuſtices of the Peace of our Soueraigne Lady the Queenes Maieſtie, in the County of *Kent*, to the Shirife of the ſayde County, to the Conſtables of the Hundred of *Blackheath*, and to the Borſholder of the Towne of *Eltham*, in the ſaid Hundred, and to euery of them, greeting: Foraſmuch as *A.B.* of *E.* aforeſaide, is not of good fame, nor of honeſt conuerſation (but an euil doer, Riotter, Barrettor, & perturber of the Peace of our ſaid Soueraigne Lady) as wee are giuen to vnderſtand by the report of ſundry credible perſons. Therefore, on the behalfe of our ſaid Soueraigne Lady we commaund you, and euery of you, that you cauſe the ſayd *A.B.* to come before vs, or ſome others of our fellowe Iuſtices, to finde ſufficient ſuerty and mainpriſe as wel for his good Abearing towards our ſayde Soueraigne Lady, and all her liege people, vntil the next quarter Seſſion of the Peace to be holden at *M.* in the ſayde County, as alſo for his appearance then there. And if he ſhall refuſe ſo to do, &c. as in the Precept of the Peace with a very litle or no change.

Any one of theſe, is ſufficient cauſe.

The vſuall Recognuſance hath this forme.

Me-

MEmorandum quòd 5. die menſis Iulij, Ann. regni Elizab. &c. venit coram nobis Ioh. Hawkins Milite, *&* Brian. Anneſley Armigero, *&c.* vt antea in Recognitione pacis, vſque ad hoc: *Quòd idem* R. G. *perſonaliter cõparebit coram Iuſticiarys dictæ Do. Reg. ad Pacem, &c. ad proximam generalem Seſſionẽ &c. Et quòd ipſe interim ſe bene geret erga Dom. Reg. & cunctum populum ſuum, et præcipuè erga* I. B *de* C. *&c. Et quòd ipſe non inferet, nec inferri procurabit, per ſe nec per alios, dammum aliquod ſeu grauamẽ præfato* I. B. *ſeu alicui de populo ipſius Dom. Reg. de corporibus ſuis, per inſidias, inſultus, ſeu aliquo alio modo, quod in læſionem ſeu perturbationem pacis dictæ Dominæ Reginæ cedere valeat quouiſmodo: videlicet vterque prædictorum* H. C. *&* I. S. *ſub pœna 100. li. Et prædictus* R. G. *ſub pœna 200. li: quas quidem ſeparales ſummas 100. li. vterq; prædictorum* H. C. *&* I. S. *(vt prædicitur) per ſe, ac prædictus* R. G. *dictas, 200. li. recognouerunt ſe debere dictæ Do. Reg. de terris, & tenementis, bonis & catallis ſuis, & quorumlibet, cuiuſlibet eorum, ad opus ipſius dictæ Dom. Reg. fieri & leuari. Si contingat præfatum* R. G. *in aliquo præmiſſorum deficere, & inde legitimo modo conuinci, &c.*

The Recognuſance for the *good Abearing.*

Dr by a ſimple Recognuſance, with this Condition endorced, or vnderwritten.

COnditio Recognitionis prædictæ talis eſt, Quòd ſi prædictus R. G. *imposterum ſe bene*

bene geret, & pacem Dominæ Reginæ conſeruabit, erga dictam Dominam Reginam, & cunctum populum ſuum, & nullum damnum corporale &c. Extunc Recognitio prædicta pro nullo teneatur, alioquin in ſuo robore permaneat.

Releaſe of the *good Abearing*

I haue knowen it doubted, whether the Suertie of the good Abearing (commaunded vpon complaint) may be releaſed by any ſpecial perſon, or no: becauſe it ſeemeth more popular, then the Suertie of the Peace. But if it may (as it ſeemeth all one to mee) then may the forme of ſuch a Releaſe bee eaſily made, by that which is before concerning the Peace, vſing the wordes, *Securitatem de ſe bene gerendo*, in ſtead of the wordes, *Securitatem pacis*.

And the like imitation may bee vſed alſo, for a *Superſedeas* of the good Abearing, if at the leaſt that bee graunted by the Iuſtices of the Peace.

I might here without breach of Order, proſecute the preſeruation of the Peace, by the preuenting of ſuch as bee riotouſly aſſembled, and by handling the Statute of *Northampton*, which ſeemeth (by plaine ſpeach) to be prouided for preuention of the breach of the Peace alſo: But becauſe the firſt ſhal haue his proper place, and the latter is commonly put in vre at this day after the Peace broken by forcible Entrie, I will ſpare to ſpeake of any of them, till I come to treat of thoſe matters by themſelues.

Of

Of the breach of the Peace without a *multitude*, againſt the perſon, and how it may be ſtaied, or puniſhed by any one Iuſtice of Peace out of the Seſſions.

Cap. III.

THe preuention of the breach of the Peace hath appeared, as well in the Suertie of the Peace, as of the good Abearing: and therefore mine owne order requireth, that I now declare what one Iuſtice of the Peace may doe (out of the Seſſions) for puniſhment of ſuch as doe breake the Peace. Breach of the Peace without a *multitude*.

For, our law is no leſſe carefull this way to conſerue the Peace, both by ſtaying them that doe any way aduenture towardes the breach thereof, and by puniſhing them that doe actually enter into the very violation of the ſame, then it was prouident to ſee it preſerued before it came to any neere ſhew of diſturbance, or greater euill.

But becauſe the breach of the Peace (as the lawe is taken at this day) whether it bee by word, or other act, (and that alſo whether it bee to the perſon, or his goods, or landes) may bee as well committed by one onely, or by two vpon a ſide (both which we hold to bee done with-

out a multitude, though two in precise speach do make a number) as by three or moe in one companie (which the lawe properly calleth a multitude,) it shalbe good to entreat by it selfe, first of that breach of the Peace which may bee committed without a multitude, and then to prosecute the other, if before all wee giue the Justice of Peace to vnderstand, that by what way soeuer he may preuent or punish the breach of the Peace in one person, the same meanes he may also vse against any multitude offending therein.

The breach of the Peace that may be practised against the person, climbeth to the destruction of the person, by sundry steps & degrees: as by Threates, Affray, (or Assault) violent & malicious striking, beating, wounding, maiming, and killing. The matter of manacing and threatning is already handled in the last chapter.

Affray and Assault.

The words Affray and Assault, bee indifferently vsed of most men, and that also in some of our booke cases: but yet (in mine opinion) there wanteth not a iust difference betweene them.

For, Affray, is deriued of the French *effraier*, which signifieth to terrifie, or bring Feare, which the law vnderstandeth to bee a common wrong, & therfore is it inquirable & punishable in the Turne of the Shirife, and in a Leete, 4. H. 6. 10: and 8. E. 4. 5. Otherwise it is of an assault, as it seemeth by those very bookes.

Yet

Yet may an affray be without word or blow giuen: as if a man shall shewe himselfe furnished with armour or weapon, which is not vsually worne and borne, it will strike a feare into others that be not armed as he is: and therefore both the Statute of *Northampton* (2. E. 3. cap. 3. made against the wearing of Armour and weapon) and the Writ thereupon grounded, do speake of it, by the words, *affray del pais*, and, *in terrorem populi*.

But an Assault, as it is fetched from an other fountaine, namely from the Latine *Assultus*, which denoteth a leaping (or flying) vpon a man: So can it not bee performed, without the offer of some hurtfull blow, or at the least of some fearefull speach. And therefore, to rebuke a Collector with foule wordes, so that he departed (for feare) without doing his office, was taken for an Assault, 27. lib. Ass. Pl. 11. And to strike at a man (although he were neyther hurt, nor hit, with the blowe) was adiudged an Assault, 22. lib, Ass. Plac. 60. For this Assault doth not alwayes necessarily emplie a hitting: and therefore, in Trespasse of Assault and Batterie, a man may be found guiltie of the Assault, and yet bee excused of the Batterie: 40. Ed. 3. 40; and 45. Ed. 3. 24.

Menacings then, Affraies, Assaultes, iniurious and violent handlings & misentreatings of the person, batteries, malicious strikings, &c. be

What acts bee breaches of the Peace, & what not.

be breaches of the Peace, and doe drawe after them the forfaiture of a Recognusance, knowledged for the keeping of the Peace.

And therefore (for example) if a man do imprison an other without warrant: or doe thrust him into a water (or riuer) whereby hee is in danger of drowning: or do rauish a woman against her will: and do commit manslaughter, or burglarie, or Robberie, vpon the person of an other: or doe commit treason against the person of the Prince, who as he is the head of his people, so are they also wounded in his hurt: he hath broken the Peace: Mar.

But concerning the manacing, assault, or batterie of the person, that is to bee noted by the way, that it is not in all cases a violation and breach of the Peace: For some are allowed to haue priuately, a naturall, and some a Ciuile power (or authoritie) ouer others: so that they may (in reasonable maner onely) correct and chastise them for their offences, without imputation of any such breach. After the one sort, the parent is suffered (with moderation) to threaten and chastise the childe within age. By reason of the other sort of power, the master is not punishable, if (not outragiously) hee chastise his seruaunt, the Scholemaster his Scholers, or a Gaoler (or his seruant, by his commandement) his vnruly prisoners, or the Lord his Villaine. But these thinges neuertheless bee done in cor-

conuenient place, and therefore not in the presence of the Prince, as it is thought, 27. lib. Ass. Pl. 49.

And this power of the Master and Schole-master, ouer the Seruant & Scholer, is affirmed by M. Mar. and confirmed by some opinion in the booke, 21. E. 4. 6. & 53. Whereunto I may also adde the minde of those that made the Statute (33. H. 8. c. 12.) concerning malicious striking in the kings house: for they do therin specially exempt the Master that striketh his Seruant, with his hand, fist, small staffe, or sticke, in way of correction for his offence.

Euery man also may take his kinsman that is mad, and may put him in a house, and bind and beate him with roddes, without breach of the Peace, 22. lib. Ass. Plac. 56.

A Constable, or other Officer, or any other, being of their company, that shall bee driuen to strike any person, for the better executing of their Office, or charge (as in many cases they may lawfully do) breaketh not the Peace, nor shal be in perill to forfeit any Recog. of the Peace, by reason of any such assault or batterie, as may wel be inferred vpon their booke cases 17. E. 4. 5: 2. E. 4. 6. & 8: 4. H. 7. 1: & 14. H. 7. 8. For such Acts, be iustifiable. And see for this purpose also, M. Stamford. Fo. 13. 14. 15.

Besides this, if a man bee inforced to repulse violence (done vnto his owne person, or to the

perſon of his wife, father, mother, childe, maſter, or ſeruaunt, or to his goods being in his poſſeſſion) eyther by threatning, or ſtriking againe, his ſo doing is alſo iuſtifiable, as may bee ſeene in Marrow: 33.H.6.18: 19.H.6.31: 9. E.4.48: & 35.H.6.50. But a Farmar, or Tenant, cannot iuſtifie ſuch an Acte in defence of his Landlord: nor a Commoner in defence of the Maior (or the Bailifes) of a citie, or towne corporate.

If one man alſo kill, or hurt another at Fenceplay, or at the Tilt, Torneament, or Barriers (in preſence of the Queene, & by her commaundement, or licence) it is no breach of the Peace: 11.H.7.23. Fineux: But M. Brooke ſaith (*Corone 228.*) that the Iudges were of an other opinion, in the time of K.H. the 8: becauſe ſuch a licence, or commandement, is againſt the law. More allowably therefore writeth Mar. that it breaketh not the Peace, to kill a man, in a Wager of Battaile, for triall of a cauſe according to the ancient law of our countrey.

Breaches of the Peace, that make no breach of bond for the Peace.

Thus far of thoſe breaches, that may bring danger to a Recognuſance of the Peace: for ſome others there be, which are (in a degree) againſt the Peace, ſo that an Enditement *Contra pacem* may be found vpon them, and yet no forfaiture of ſuch a Recognuſance, ſhall enſue of them. For the act, that ſhall breed ſuch a forfaiture, muſt be done vnto the perſon. Mar.

There-

Therefore, if a man (ſo bound) doe take a mans goods wrongfully, (ſo that it be not from his perſon) or do Rauiſh or take, an other mans Warde: or doe a Treſpaſſe in another mans Corne, or graſſe: or doe Diſſeiſe another of his lands: or do enter into lands, where hee ought to bring his Action: it will breede no forfaiture of his bond.

Let vs nowe come to the pacifying and puniſhing of the Breach of the Peace, vpon the perſon, by one Iuſtice of the Peace out of the Seſſions.

A Iuſtice of the Peace, is vndoubtedly (for this purpoſe) endued with no leſſe power, then euery Priuate man, or any Conſtable hath: as it is plaine by 14. H. 7. 8: & 9. E. 4. 3. And therefore, it may not bee thought *Heterogeneum* (or beſides my purpoſe) if I ſhall ſhew what both a Priuate man & Conſtable may doe in this caſe: yea rather I chooſe to vtter this matter vnder their names, to the ende that I may with that one labor bewray the dueties, both of them & of the Iuſtice of the Peace himſelfe in this behalfe.

The Lawe looketh, that euery Priuate perſon, whome it ſhall happen to bee preſent at an Affray, Aſſault, or Battery, (for now I wil with other men confound thoſe names) ſhould do his part to depart them that fight together: and it doeth (to that ende) enable him alſo with ſome portion of authoritie. The duety of a ſtander by at an *Affray*.

To part them. For, if two bee fighting, euery Stander by, may lawfully, and shall doe well to put them in sunder: and if he take hurt thereby, he shal haue his remedie by Action against him that did the hurt.

But yet hee (being but a Priuate man) may doe no hurt, if they resist him: for they also shall then haue Action for it against him: wherein his case differeth (as you shall see anone) from the case of an Officer.

And if an Affray be in the high streete, and one commeth towardes it with harnes or weapons to ioyne with the one or other partie, euery man that seeth it may stay him till the Affray be ended.

To stay them. Any man also may stay the Affraiors, vntill the storme of their heat be calmed: and then may he deliuer them ouer to the Constable to imprison them, till they finde Suertie for the Peace: but he himself may not commit them to prison, vnlesse the one of them bee in perill of death by some hurt: for then may any man carie the other to the Gaole, till it be knowen, whether he so hurt, will liue or die, as appeareth by the Statute, 3. H. 7. cap. 1.

And if (in that case) hee which did the harme doe flee into another mans house, yet may any man (that followeth him vpon Huie and Crie made) breake open the house, and enter, and take him. 7. E. 3. Fitz. Barre. 291.

Now,

Nowe, that it is not onely lawfull, but commanded also, that the Stander by doe shew his best endeuour in these cases, it appeareth (Corone Fitzh. 395.) that one which stoode by, and looked on, whilest a man was slaine, was imprisoned till he made Fine, because hee did not bestirre him to attach the Murderer.

But, as the keeping of the Peace is more specially recommended to the charge of Iustices of Peace, Constables, petit-Constables, Bursholders, Tithing men, and such like Officers: so be they also to that ende armed with a larger measure of authoritie.

The *Officers* duetie in an *Affray*.

And therefore, if a Constable, or such other Officer doe see a man endeuouring to make an Affray, he may command him to auoyde, vpon paine of imprisonment: & if the Affray be great, or dangerous, he may make Proclamation, and may commaund the parties to prison for a small time, till their heate be passed ouer, and then he must deliuer them without any fine taking. But if two doe vse onely hote words one against the other, the Officer may lay no hands vpon them, vnlesse they doe also draw weapon, or doe otherwise offer to strike: If they once fight together, then may the Officer depart them, and if he hap to be hurt in that doing, hee shall haue an Action of Trespasse for it: but if any of them bee hurt by him in the resistance, no Action lieth for them: For, the Officer ought to doe his best to depart them:

them: in so much as if it be presented at the Sessions of the Peace, that he was present at an Affray, and did not vse his indeuour to put them in sunder that fought together, he shalbe deepely fined for it: Other wise it is, if he were not present, but were only told of the Affray, Mar.

If any of the parties be in danger, by reason of a hurt receiued in the Affray, then ought the Officer to arrest & carie the other to the Gaole, vntill hee shall finde suertie to appeare at the Gaole deliuerie. Fitzh. 72: 38. E. 3. 6: & 22. lib. Ass. pl. 56.

And if two men bee fighting in a house (the doores shut) then may the Officer breake open the doores to see the Peace kept, though neither of them haue taken hurt.

And yet when the Constable hath taken an Affrayor, he may not imprison him in his house, but in the Stocks: and that, not aboue such a reasonable time, as he may prouide to conuey him to the Gaole til he find suerty for the Peace. 3. H. 4. 9: & 22. E. 4. 35.

And herein hee differeth from a Gaoler, or the Sherife (who hath the charge of the Gaole) for he may make a Gaole of his house: and so cannot a Constable or Iustice of the Peace doe. For by the Statute (5. H. 4. c. 10.) the Iustice of Peace must send his prisoners to the common Gaole. And you may read (Britt. Fol. 72.) that the Sherife in his Turne vsed to enquire of those

those which made Prisons in their houses.

If one doe make an Affray vpon a Iustice of the Peace, Constable, or such other Officer, he may not onely defend himselfe, but may also apprehende the offendour and sende him to the Gaole, till hee will finde suertie of the Peace. 5.Hen.7.6. And the Iustice, or Constable may (if neede bee) commaunde assistaunce of the Queenes people, for the pacifying of an Affray, 3.H.7.10.

If hee that maketh an Affray doe flie into a house when the Iustice of Peace (or Constable) commeth to arrest him, they also may (in freshe suite) breake open the doores, and take him. Mar: or if he flie thence, they may make fresh sute and arrest him, though it be in an other Countie: by the opinion of some men 13.E.4.9. And it should seeme (by the reason of that Booke) that in this case also, they may breake open the doores to apprehend him: because the Prince hath an interest in the matter, and then a mans house shall be no refuge for him, as it should be in Debt or Trespasse, where the interest is but only to some particular subiect.

Nowe, if the Constable doe arrest one, that hath hurt an other, and do voluntarily suffer him to Escape, and then hee that was hurt dieth thereof within the yeare and day, the Constable shall make a great Fine, and that to the value of his goodes, in the opinion of some, 11.

H.4.

H.4.12: & Stanford 35. But yet the offence shall not haue such Relation to the stroke, as to make the escape to become Felonie thereby: *Commentar. Plowd, 263.*

Of the breach of the Peace, without, or with, a multitude, by forcible entrie *into lands or tenements, &c. And what* any one Iustice of the Peace (out of the Sessions) may doe therein.

Cap. IIII.

IT seemeth, that (before the troublesome reigne of King Richard the second) the common Law permitted any person (which had good right or title to enter into any land) to win the possession thereof by force, if otherwise hee could not haue obtained it.

For, a man may see (in Britton, Fol. 115.) that a certaine respite of time was giuen to the disseisee (according to his distance, and absence) in which it was lawfull for him to gather force, armes, and his friends, and to throw the disseisor out of his wrongfull possession.

And at this day, if (in a common Action, or enditement, of Trespasse for entring into lande) the Defendant will make Title thereunto, the matter of the Force alleaged against him will rest altogether vpon the validitie of his Title, as appea-

appeareth 7.H.6.13.and 40.

But, after the rebellious tumult, and insurrection of the villains, and other the base commons, which happened in the 4. yeare of that Kings reigne, the Parliament (5.R.2. cap. 7.) thinking it necessary to prouide against all such occasions of further sedition, vproare, and breach of the Peace, did ordaine among other things, That from hencefoorth none make any entrie into any landes and tenements, but in case where entrie is giuen by the lawe, and in such case not with strong hand, nor with multitude of people, but onely in peaceable and easie manner: vpon paine (if hee bee duely conuict thereof) of imprisonment, and to be ransomed at the Kings will.

But because that Statute prouided no speedie remedie in this poynt: nor extended to holding with force: nor left any speciall power therein to the Iustices of Peace in the countrie: whereas the experience of that vnquiet time required a more readie hande to the suppression of such disorder: and Iustices of the Peace were (by 13.R.2.Stat.1.cap.7.) then newly chosen in all the Counties of Englande, of the most sufficient Knights, Esquiers, and men of law of the same, and sworne to put in execution all the ordinaunces touching their offices: Therefore (15.R.2.cap.2.) it was further enacted, That when such forcible entrie should bee made

 Forcible entrie

made into lands or tenements, or into Benefices, or Offices of the Church, and complaint thereof come to any Iuſtice of the Peace, hee ſhould take ſufficient power of the County, & goe to the place where ſuch force was made: and if he found any that held ſuch place forcibly after ſuch entry made, the ſame ſhould bee taken & put in the next Gaole, there to abide, conuicted by the Record of the ſame Iuſtice, till they had made fine, and ranſome to the king: And that as well the Sherife, as all others of the Countie, ſhould attend vpon the ſaide Iuſtice, to goe and ſtrengthen the ſame Iuſtices to arreſt ſuch offendours, vpon paine of impriſonment, and to make fine to the King.

But now againe, forasmuch as this laſt Statute did not extende to thoſe that entred Peaceably and then helde with Force: nor yet reached to the offendors if they were remoued before the comming of the Iuſtices: nor made reſtitution of the poſſeſſion ſo forcibly gotten: nor gaue any paine againſt the Sherife that did not obey the preceptes of the Iuſtices in this behalfe: it was not onely ordeined by a third Act (made 8. H. 6. cap. 9.) That the ſayde former Statutes ſhould be holden and duely executed, But it was adioyned alſo thereunto, That if any from hencefoorth make ſuch forcible entrie into landes, tenementes, or other poſſeſſions; or them holde forcibly: after complaint thereof made

made within the ſame Countie to any of the Iuſtices of the Peace there by the parties grieued, the Iuſtices or Iuſtice ſo warned ſhall in conuenient time cauſe the laſt ſaid Statute duly to be executed at the coſts of the ſaid party ſo grieued.

And whether the perſons (making ſuch entries) bee preſent or auoyded before the Iuſtices comming: the ſame Iuſtices (or Iuſtice) in ſome good towne next to the ſaid tenements, or in ſome other conuenient place at his diſcretiõ, ſhal haue power to enquire by the people of the ſame countie, as well of them which made ſuch forcible entries into lands or tenements, as of them which helde the ſame with force: And if it be found before any of them, that any doeth contrary to this Statute, then the ſaid Iuſtices (or Iuſtice) ſhall doe the ſayd lands or tenements to be reſeiſed, and ſhal put the partie (ſo put out) in full poſſeſſion of the ſame. And when the ſaide Iuſtices (or Iuſtice) make ſuch enquirie, they ſhal direct their Precept to the Sherife, commaunding him on the Kings behalfe, to cauſe to come before them and euery of them, ſufficient and indifferent perſons, dwelling next about the ſame landes or tenements, whereof euerie man ſhal haue landes or tenements of the cleere yearely value of fourtie ſhillings at the leaſt, and the Sherife ſhall returne twentie ſhillinges in iſſues

vpon

vpon euery one of them at the first Precept returnable, and at the second forty shillings, and at the thirde fiue pounds, and at euery day after, the double. And euery Sherife of Countie, and Bailife of Franchise, that shall not duely make execution of the said Precepts, shal forfeite to the King twenty pounds for euery default, and shall moreouer make fine and raunsome to the king. And as well the Iustices (or Iustice) aforesaide, as the Iustices of Assises, may heare and determine such defaults of Sherifes or Bailifes, as well by Bill at the suite of the partie grieued for himselfe, as for the King onely by way of Enditement: and vpon such due attainder, hee which sueth for himselfe & for the King, shall haue the one moitie of the saide twentie pounds, together with his costes and expenses: and such Processe shall bee against such so endited, or sued, as lyeth against any person endited, or sued, by writte of Trespasse with force and Armes against the Peace. And the Maiors, Iustices, or Iustice of the Peace, Sherifes and Bailifes, that are in Cities, Townes or Boroughs (hauing Franchise) shal haue like power there in the articles aforesaid, as the Iustices of Peace, and Sherifes in the Counties haue.

But they which keepe by force their possessions in any lands or tenements, whereof they or their ancesters, or they whose estate they haue

haue therein, haue continued their possession in the same by three yeeres or more, shall not bee endamaged by force of this Statute.

This last Statute I haue exemplified the more at large, for that it deliuereth a full direction in this businesse. Besides the which, seeing that I haue met with some other notes that tend to the explanation of sundry points thereof, and seeme not vnmeete to bee considered, I will not let to bestow them here also.

This Statute (8.H.6.) enableth any one Iustice of the Peace, to giue remedie in this hurt of Forcible entrie and holding: and is made, as well against such as enter with Force and holde then Peaceably: and against those that enter in Peaceable sorte, and then maintaine their possession Forcibly: as also against as many, as do both Enter and Hold in Forcible maner. Fitz. Nat.Bre.148: & 3.E.4.19.

And therefore, it is expedient for the Iustice of the Peace to know, first, what is a Forcible entrie, and what is a Forcible holding, within the meaning of these Statutes: and then, how hee shall demeane, and carie himselfe in the execution of his office against those that shall offend heerein.

Euen as the *Ciuilians* doe handle two sortes of Force: of which they call the one, *vim*, and *vim simplicem, priuatam, siue quotidianam:* and the other, *vim armatam, atrocem, & publicam:* Two sorts of Force.

because the first is voyd of any feareful outrage, and the latter seemeth to kindle the coales of sedition it selfe: So likewise, our Lawe taketh knowledge of two maners of Force: wherof the one is rather intellectual then actuall, and may therefore be termed, a Force in the consideration of Lawe, which accounteth all that to be *Vis*, which is contrary to *Ius*: But the other is apparant, by the act it selfe, which alwayes carieth some feareful shew, and matter of terror, (or trouble) with it. Howbeit, in this we differ from thē, that whereas our Law corrupteth the words *vi & armis*, when it meaneth but onely the firmer force, the Ciuile Lawe doeth seuer them, applying *vis* to the former only, & *armis* to this latter.

And therefore, if I doe but hawke, or walke, (for my pastime, or recreation) ouer an other mans ground, hee may haue his Action of Trespasse against me, *Quare vi, & armis, &c.* For, though I meant no harme to him, or his, yet (in iudgement of Lawe) I might not (in such case) passe vpon his grounde without licence. But this is not that Force, that needeth the helpe which is prouided by these Statutes: for (34. H.6.26.) a writ vpon the Statutes: (5.R.2. cap.7.) was disallowed, because it conteyned *Vi & armis*, onely.

Againe, if a man doe enter vpon the freehold of an other, and doe there fish the waters with an angle, or cut downe the grasse with a sithe, or fel

the

the trees with an axe; or take away any of his goods in his absence: this is accounted a disseisin with Force, and armes: Lib. Ass. 11. pl. 26: 11. H. 4. 16. Assise. Fitzh. 301: & 21. E. 3. 34: And yet, I doubt also whether any of these bee of themselues Forcible entries of that nature, which these Statutes doe take in hande to punish. For, albeit they haue in them more actuall Force, then those other trespasses whereof I spake last before: yet, whilest the doer of them neither executeth apparant violence against any person, nor is furnished with weapon, nor armed with company, that may offer any dreadfull disturbance, I see not how these Statutes (which haue for their only marke, strong hand, and multitude of people) can hurt, or so much as hit him.

So that, if a man were endited vpon this Statute (8. H. 6.) for that he disseised another, *Vi, & armis*, (viz. *gladijs, &c.*) without saying, *manu forti, &c.* or, *cum multitudine, &c.* the Bill (as I thinke) would bee insufficient: vnlesse it were holpen by concluding afterwarde, *contra formam Statuti prædicti*, or by some other matter that implied so much. Therefore,

Paulò maiora canamus.

If one, or moe persons, shall come weaponed (especially with weapons not vsually borne, as Bowes, Bils, Guns, or such like) to a house, or lande, and shall violently enter thereinto, Forcible entrie.

this is a forcible entrie within the meaning of these Statutes: much more, if hee, or they shall there offer violence, or feare of harme, to the person of any that is in possession thereof: and most of all, if he, or they, shall forcibly and furiously expel, and driue an other, out of such his possession.

In the which consideration, he that entreth in a peaceable shew (as the doore being either opē, or but closed with a latch onely) and yet when he is come in, vseth violence, & throweth out such as he findeth in the place, he (I say) shal not bee excused: because his entry is not consummate by the onely putting of his foote ouer the threshold, but by the action and demeanour that he offereth when he is come into the house.

And, albeit that of three (or foure) which come (in one company) to make such a forcible entrie, only one of them doeth vse force, and violence, yet are al the rest also guiltie of this force with him. Fitz. Imprison. 22. Neither is it denied (10. H. 7. 12.) to be a forcible entrie, when the Master entreth, being attended with a greater number of seruants then vsually do waite vpon him. For, whether a man doe actually vse force in his entrie, or doe come so readily appointed, and arayed for it, that other men may reasonably be afraide that he mindeth to make his way by force rather then hee will faile of his desired purpose, it seemeth to weigh to a violent, (or Forcible) entrie.

And

And I thinke there bee no great doubt, but that one person alone, may commit a forcible entrie, if so bee that hee doe performe it with offensiue weapon, or doe vse turbulent behauiour to the affray of another.

But, what weapons be offensiue, in these and the like cases, a man shall the better discerne, if he will take with him these few Lines drawen out of M. Bractons booke, Fol. 162: *Est etiam vis armata, non solum si quis venerit cum telis, verumetiam omnes illos dicimus armatos, qui habent quocum nocere possunt:* Telorum autem appellatione, omnia in quibus singuli homines nocere possunt, accipiuntur. *Sed si quis venerit sine armis, & in ipsa concertatione ligna sumpserit, fustes, aut lapides, vis dicetur armata. Si quis autem venerit cum armis, armis tamen ad deijciendum non vsus fuerit, & deiecerit, vis armata dicetur esse facta:* sufficit enim terror Armorum, vt videatur armis deiecisse.

Furthermore, if a man that hath a rent issuing out of Land, shal distreigne for the same with force, this wil counteruaile an Entrie with force: and much more, if hee shall by such forcible distresse leuie a rent that is not due to him, but to another man. 20. H. 6. 11. & Lib. Ass. 43. pl. 6: for, action vpon the Statute of Forcible entrie lieth for a rent: 22. H. 6. 23.

But nowe, if diuers persons shall make a forcible entrie to the vse of an other man (which

is not then present with them, but afterwarde agreeth thereunto) this shall not charge him for the Force, howsoeuer he may become a disseisour by it: for (as it is said, 2.H.7.16.) a forcible entrie cannot be adiudged against a man, without an actuall entrie bee also made by him.

Forcible holding.

Thus farre of Forcible entrie, which may somewhat leave a man towards the knowledge of deteining, (or holding) with Force also: but yet, because the matter will best appeare by particularitie, I will ensue it.

If a Iustice of the Peace come to the house, (that is supposed to be holden with Force) and there findeth but one person, which obstinately keepeth the doore shut against him, and will not suffer him to enter: this is a Forcible holding, Marrow. So is it, if when the Iustice entreth the house, he shall finde persons harnessed, or in other warlike sort appointed, or hauing such furniture lying ready in the house to be vsed by them: Marrow. But if a man shall Peaceablie enter into a house, wherein he findeth armour, or weapon for the warre, then (as I thinke) the onely suffering of it to remaine there (without the vse thereof) will not charge him as a Forcible holder.

Againe, if a man that is entred into a house, wil bestowe men, with force and armes, in some other house or place (not farre distant) to the intent that they shall be ready to assault such as shall

shall make any attempt of entrie vpon him: this is a deteyning with force, Marrow. And (for the same reason) it seemeth to bee a forcible holding, if a disseisor of a house, or Lande, shall forestall the way of the disseisee (with force and armes) so that hee dare not enter, or approch for feare of death. Seeing that in eyther case, the lawful meane of comming to his possession, is quite taken from him: Like as if a man haue a rent, or commune in Lande, and he is so forcibly resisted by the Tenant of the Land, that hee dare neither distreigne for the one, nor vse the benefite of the other: this is a holding with force, punishable by this Statute, Marrow: & Lib. Ass. 29. pl. 49: Besides this, some haue thought, that if hee which hath gayned a possession, shall threaten to kill him (that hath right) if he come to enter, this shall amount to a Forcible holding.

But, all that is here said touching this point, must be taken to be said of a forcible deteyning, of the possession it selfe, and not of the person. For (as Marr. writeth) if I shall take a man (beyng out of his house) and then put into the house a seruant of mine owne, in peaceable maner, and holde away the other by imprisonment of his person in some other place: this is no forcible deteyning within the purpose of these Lawes: but a false imprisoning punishable by action at large.

The duetie of the Iustice.

We come now to the office of the Iustice of Peace, in these Forcible entries, and holdings: and that standeth first, either in recording the force by his owne viewe, or in seeking to vnderstand thereof, by the oathes, and enquirie of other men.

Complaint is not necessary.

Touching the recording of the force, although both this Statute (8.H.6.) and that other (15.R.2.) haue mention, That the Iustice shal (vpon complaint made vnto him by the partie grieued) goe to the place, &c: yet, that doeth not enforce any necessitie of such a complaint: for it is holden (7.E.4.18.) that a Iustice may Record a forcible entrie, and holding, or may enquire of it, and make restitution also, (vpon any information, or knowledge thereof whatsoeuer) though no complaint at all bee brought vnto him by any partie grieued thereby. And, as the Statute saith, that this ought to bee done at the Costes of the partie grieued: So

Costes.

M. Marrow thinketh, that vnlesse those costes be tendered before hand, the Iustice needeth not to stirre about it. But, howsoeuer he (being then a practizer in law) might thinke it good to stand vpon his fee: yet I aduise our Iustice of the Peace to go forward, as hauing more regard of his credite, oath, and duetie.

The right is not commonly disputable.

Neither ought hee to stagger, or stay at all, about the right, or wrong, of his Title that entreth, or holdeth, forcibly. For, considering that the

the sayd Statute (5.R.2.) doth without exception prohibite all entrie with force, howsoeuer the entrie be otherwise lawful: and seeing also, that the other Statute (8.H.6.) permitteth no forcible holding, but onely where three yeeres possession haue gone before: And weighing that both they, and this other (15.R.2.) doe altogether labour to represse force and violence and haue also made the Iustice of the Peace their minister therein: I see no cause, why the Iustice of Peace (who perhaps shall want sufficient learning in the law to discerne of the right, or title, and yet may bee both a fit person to remoue the force, and able inough to restore the possession) should be tied to the discussion of the right, or title, of eyther of the parties.

And this I gather vpon the opinion of all the Court (9.H.6.19.) which was the very next yeere after the making of the last of these Statutes: where it is sayd, that the Action vpon the Statute (8.H.6.) is for the right onely, and must alway say, *Illicet è ingressus est*, or, *vbi ingressus non datur per legem*: but the enditement is for the force in respect of the King, to whome the partie shall make Fine, although his right be neuer so good, and sound.

And thereupon, the booke (22.H.6.18.) admitteth this case: That if A. shal disseise B. of his land, and B. doe enter againe, and put out A. with force: A. shall be restored to his possession by

by the helpe of the Iustices of the Peace, although his first entrie were vtterly wrongfull: and, that (notwithstanding the same restitution so made) yet B. may well haue an Assise against A. or may enter peaceably vpon him againe.

And therefore, the Iustice of the Peace may boldly proceede in this businesse, taking with him sufficient power of the countrey by his discretion (and therein the Shirife also, if need do require) as well for the arresting of such as he shall find to enter, or hold, forcibly against these Lawes: as also for the remouing of the force which they bring, & for the conueighing of them to the next Gaole as persons thereof conuicted by his owne eye, testimonie, and record.

Recording of the *Force.*

The forme of which record, may stand vpon two partes: the one, to remaine amongst the records of the Peace, or to bee certified into the Kings bench: and the other, to bee sent to the Gaoler, and to lie with him for his better warrant and discharge.

The record of the Force.

Kanc. *Memorandum, quod octauo die mensis Ianuarij, anno regni Dominæ nostræ Elizabethæ, &c. Questus est mihi* Ioanni Richers, *vni Iusticiariorum dictæ Dom. Reginæ ad pacem in dicto comitatu conseruandam, Necnon ad diuersa felonias & alia malefacta in eodem Comitatu*

mitatu audienda & terminanda assignatorum, quidam A.B. *de* Wrotham *in dicto com.* Yeoman, *quod* C.D. *de* Wrotham *prædicta, & nonnulli alij pacis dictæ Dom. Reginæ perturbatores ignoti, in domum mansionalē ipsius* A.B. *in* Wrotham *prædicta, manu forti ingressi sunt, & ipsum* A.B. *inde dissesiuerunt, ac eandem manu forti & armata potentia adhuc tenent: ac proinde petijt à me sibi in hac parte remedium appeni. Qua quidem querimonia & petitione audita, ego præfatus* Io. Richers *immediatè ad dictam domum mansionalem personaliter accessi, ac in eadem domo ad tunc inueni præfatum* C.D. *& quosdam* E. F. *&* G.H. *&c. domum illam vi & armis, manu forti, & armata potentia, viz. arcubus & sagittis, gladijs, pugionibus, galeis, & Loricis tenentes, contra formam Statuti in Parliamento Domini* Richardi *nuper Regis Angliæ secundi, anno regni sui decimo quinto tento, editi, ac promisi, ac contra formam diuersorum aliorum Statutorum. Ac propterea ego præfatus* Io. R. *prædictos* C. D. E. F. *&* G.H. *ad tunc & ibidem arrestaui, proximæque Gaolæ dictæ Dominæ Reg. apud* Maidstone *in dicto comitatu duci feci, vt de dicta manu forti tentione per visum & recordum meum conuictos, ibidem moraturos quousq; fines dictæ Dominæ Reginæ pro transgressionibus suis prædictis fecerint. Datum apud* Wrotham *prædictam sub sigillo meo, die & anno supradictis.*

Per me præfatum Iohan. Richers.

And

And the forme of the *Mittimus* to the Gaoler, may be thus.

Kent. *George Chawne*, one of the Iustices of the Peace of our Soueraigne Lady the Queenes Maiestie within her said County of *Kent*, to the keeper of her Maiesties Gaole at *Maidstone* in the sayd countie, and to his deputie and deputies there, and to euery of them greeting: Whereas vpon complaint made vnto me this present day by *A.B.* of *Wrotham*, in the sayd Countie *Yeoman*, I went immediately to the dwelling house of the sayd *A.B.* in *Wrotham* aforesayd, and there found *C.D. E.F.* and *G.H.* of *Wrotham* aforesayd Labourers, forcibly, and with strong hand, & armed power, holding the sayde house, against the peace of our sayde Soueraigne Lady, and against the forme of the Statute of Parlement thereof made in the 15. yeere of the reigne of the late K. *Richard* the second. Therefore I send you (by the bringers hereof) the bodies of the sayd *C.D.E.F.* and *G.H.* conuicted of the sayd forcible holding, by mine own view, testimonie, and record: commanding you in her Maiesties name, to receiue them into your sayd Gaole, and there safely to keepe them, vntill such time as they shall make their fines to our sayd Soueraigne Lady for their sayde Trespasses, and shall bee thence deliuered by the

the order of the Law of the land. Hereof fayle you not, vpon the peril that may folow therof. Yeouen at *Wrotham* aforesaid, vnder my seale, the day and yeere abouesayd.

By me the said G.C.

But now, forasmuch as this Law hath prouided restitution for the partie that shall be put out of possession by such forcible entrie: and for that no restitution can be made by the Iustice of Peace, but only vpon the finding of the same putting out by the oaths of the Enquirors: let vs also consider what is the duetie of the Iustice in these two pointes, of Enquirie and Restitution.

Enquirie of the *Force:* and restitution of possession.

Concerning the Enquirie, M. Marrow noteth these few things: First, that it is no cause to impeach the Enquirie, though the Iustice do not go to see the place where the Force is: and yet the words of the Statute are, Whether the persons be present, or auoyded before the Iustices comming: Secondly, that albeit the letter of the Statute is, that each Iuror of this enquirie ought to haue lands, or tenementes of the cleare yeerely value of fortie shillings: yet if any of the presentors haue not so much land, the presentment is good for the Queene: but then (sayeth he) the partie shall haue no restitution by it, if that matter be shewed at the time of the restitution to be made. Howbeit I doe

doe not well perceyue, how the restitution (that the Iustice of the Peace ought to make vpon such a presentment) can be staied, saue only eyther by remouing of the recorde into the Bench of the Queene, or by alleadging three yeeres quiet possession: Thirdly, that if the Shirife shall returne smaller issues vpon the Enquirours then the Statute doeth appoynt, yet the partie shall neuer take aduantage of it.

Restitution. And nowe, though (in some cases) for the punishing of the offendors (by imprisonment, and fine) it bee not altogether requisite to bee founde, that the partie grieued is actually throwen out of his possession by them, insomuch as the onely holding with force will suffice for that purpose: yet (in other cases) for the hauing of the restitution by the Statute, this putting out must of necessitie (sayeth M. Marrow) bee found by the Enquirie.

And therefore, if the trueth of the case be, that after the death of A. another man abateth (or entreth) into his land forcibly, before the heire of A. hath gotten any actuall possession in deed: the heire of A. shal haue no restitution, (as Mar. saieth) because hee had but a possession in lawe onely. So, if it be presented, that you were seised, vntill that A. entred vpon you with force: you shall neuer haue restitution by it, because it may be that he entred forcibly, and that yet you were

were not put out of possession by him, Marrow. But, if it be found that you were seised, vntill that A. put you out with force: or vntill that A. put you out, and that hee holdeth in with force, then you shall be restored to your possession, as saieth M. Marrow.

And this putting out is alwayes to bee vnderstoode, eyther of a house (or land) onely, and not of a Rent, Common, Aduowson, or of any such other like thing, whereinto an actuall entrie cannot be made: Marrow. Moreouer, it is not ynough that the putting out be found, vnlesse the Enditement doe also contayne *adhuc extra tenet*, that he yet holdeth the other out of his possession: without the which, it may bee thought that the other hath gotten in againe, and then restitution shall be needlesse.

Againe, this restitution ought to bee made to him that was put out, and to none other: So that, if the father bee put out by force, and dieth after the time of Enquirie, and before restitution, his heire shall not haue restitution vpon it: Marrow.

And in some cases (saith M. Marrow) there may be a mutuall (or crosse) restitution awarded: as, if it be found by one Enquirie, that I my selfe was seised vntill that A. disseised mee with force: and by another Enquirie, that the same A. was seised, vntill by mee disseised with force: nowe eyther of vs may pray restitution, and

and shall haue it against the other: because it is by seuerall Inquisitions, whereof the Iustices (supposed to be seuerall) cannot take mutuall vnderstanding: and then shall hee bee in the worse case, that hath the first restitution: for the other shall haue him remooued, by his restitution that commeth after. So, (by his opinion) if it be found, that I my selfe was seised, vntill disseised by A. with force, whome also B. disseised with like force: Here if A. getteth restitution against B. then may I also haue my restitution against A: But if I first obtaine my restitution, then hath A. lost the aduantage of his: because it appeareth by the selfe same Inquisition, who had the first possession. And if it happen two Ioint-tenantes of land to bee put out with force, and the one of them onely wil sue for restitution, hee ought to haue it made vnto him. Marrow.

Restitution, to a Lessee for yeeres.

But whether a Lessee for yeeres of lande, that is expulsed by force, shall be holpen by these Statutes, it hath beene a good question. For, on the one side it is sayde, that albeit the preamble of the Statute (15. R. 2.) hath the worde (possessions) which may extend to a lease for yeeres, because that of such a lease a man is said to be possessed, euen as he that hath an inheritance, or freehold, is sayde to bee seised: and although also the puruiew of the Statute (8. H. 6.) vseth the same word (possessions) also, yet that

that (say they) is but onely where the force is to be remooued, and where the offendors are to be punished by imprisonment and fine: all which they graunt may bee done in the behalfe of a Lessee for yeeres: but seeing that seuerall branch of the Statute 8.H.6. (which doeth directly prouide the restitution) omitteth that worde possessions, therefore (say they) none shal haue restitution, but such onely as be put out of landes, or tenementes: and those wordes must be vnderstood of them onely, that haue inheritaunce, or freehold at the least. So that, if such a Lessee (or any Copyholder) will be ayded by way of restitution, the Enquirie must (by this opinion) find the Lessor (or the Lord) to be forcibly put out, and expulsed: that by his restitution, the Lessee or Copyholder, may bee restored also.

But on the other side, M. Marrowe maketh no doubt, but that such a Lessee for yeeres may haue restitution by the hand of a Iustice of the Peace. And (to accompany him herein) who can denie, that the same inconuenience (which these lawes doe labour to remooue) followeth not equally in eyther case? Besides that, the very wordes of that speciall branch are these, If it bee found that any doeth contrary to this Statute, then the sayde Iustice shall cause the sayde lands, and tenements to be reseised, and shal put the party (so put out) in ful possession

of the same. Upon which words it followeth: First, that if he which expulseth by force a Lessee for yeeres, doe contrary to this Statute (as it is graunted that hee doeth) then that Lessee ought to bee restored to his possession by this branch: and secondly, if they will haue the life of the lawe to rest onely in the bare letters, and syllables thereof, (a thing which wise men doe condemne, and call *verborum aucupium*) then the words be, that he shall be put in ful possession, which word possession agreeth better with a lease for yeeres (as themselues say) then with a freehold, or inheritance, for which the word seisine is altogether vsed. But the common opinion swayeth to the other side: therfore leauing this to the iudgement of the better learned, I will returne to the office of our Iustice.

After the entrie, or detayning with force shall be thus presented, the Iustice of the Peace may eyther by himselfe, or by direction of his precept to the Shirife, (vnder the Teste of himselfe alone) restore the partie grieued to his possession.

And if vpon a Writ of restitution to the Shirife, he shall returne that he is so resisted that he cannot bring the partie into his possession, hee shalbe amerced for such his returne, (saith Marrow) because hee may take the power of his countie to assist him therein.

And it is certayne, that if the presentment

bee

bee ſent into the Kings bench, the partie may haue his reſtitution awarded out of that Court by the equitie of this Statute: as it is holden 7.E.4.18:& 4.Hen.7.18. But if it happen that Iuſtice of the Peace (before whom the Enquirie was taken) to die before reſtitution bee deliuered by him, it may bee doubted, whether his fellowe Iuſtices (hauing the preſentment brought vnto them) may at their Quarter Seſſions awarde the reſtitution: becauſe the Statute ſeemeth to referre it to them onely before whome the Enquirie was made. It is (I know) the opinion of Maſter Marrow that they may: grounding himſelfe (as I thinke) vpon the ſame equitie, by which the Iuſtices of the Kings Bench are enabled to doe it: Howbeit it may appeare (*Collect.* Diar.187.) that the lawe is otherwiſe taken both therein, and alſo in the granting of a *Superſedeas* to ſtay the reſtitution: becauſe no Iuſtices can doe that, or this, but they onely that were preſent at the Seſſion when the Enditement was found, except thoſe of the Kings Bench, who (for the ſuppoſed preſence of the Prince) doe carry a ſupreme authoritie in theſe caſes of the Crowne. But Marrow agreeth, that neither the Iuſtices of the Kings bench, nor any other (beſides him that made Enquirie) can perſonally reſtore the partie, but by way of Precept onely. Agayne, whether (after ſuch a preſentment) the partie

Trauerſe.

charged may bee admitted to his Trauerſe before the ſame Iuſtice of the Peace, and if not, then where, or before whom, this Trauerſe is to be made or tendered, I will not take vpon mee to reſolue.

This ſeemeth (vpon conſideration of both the Statutes) to be plaine that ſuch perſons as the Iuſtice of Peace doth finde, and ſee, continuing the force at his comming to the place, them he may immediatly commit to the Gaole, as conuict of that offence, notwithſtanding any their gainesaying whatſoeuer: But vpon the enquirie, I ſee not that the Iuſtice of peace hath any other power committed vnto him (by 8.H. 6.) then to make the reſtitution onely, which alſo it ſeemeth that hee may make, notwithſtanding this offer of Trauerſe. And if hee will not ſo doe, the ſafeſt way (in mine opinion) is, to deliuer, or certifie the preſentment into the Kings bench: and ſo, to referre the further proceeding therein to their further power, and authoritie.

Aſſeſſement of the Fine.

Againe, touching the aſſeſſement of the Fines, or ranſomes, vpon the offendors, ſo conuicted by the recorde of the Iuſtice of peace, and by his warrant conueighed to the Gaole, ſome men doe thinke, that the ſame Iuſtice hath ſufficient authoritie to put them to their fines, and vpon pledges (found for the payment thereof) to deliuer them out of priſon againe, when hee by his diſcretion ſhall thinke it good. For (as they

they ſay) he is the onely appointed Iudge ouer this offence, and onely hath the cuſtodie of that recorde, and knoweth beſt both howe to moderate the impriſonment, and to rate the fine, according to the quantity of their treſpaſſe, and offence: And, as he is bound by this oath and dutie (in their opinion) to eſtreat all iſſues, and amerciaments growing to the Queene by his enquirie: So, ought he alſo to eſtreate, and ſend this into the Eſcheaquer: that from thence the Shirife may be commanded to leuy it to her Maieſties behooſe.

But (graunting this to bee true) yet, (to auoid all perill, of daſhing againſt the rocke of doubt) I thinke it the better courſe, to referre this ouer, as I aduiſed in the caſe that went laſt before.

Nowe muſt I conclude, as doeth this Statute (8.H.6.) with this proniſo: that ſuch as keepe their poſſeſſion by force, after that they haue the continuance of three yeeres poſſeſſion, ſhal not be endammaged by force of that Statute. And here the booke (14.H.7.28.) ſtayeth me with one other queſtion: for, there it is ſayde, that albeit in an Action vpon this Statute, it be a good barre for the defendant to pleade his three yeres poſſeſſion, though it were altogether by force: yet, (vpon an enditement) Twentie yeeres poſſeſſion by force ſhall neyther be any plea againſt the Queene, nor ſhall

Continuance of 3. yeeres poſſeſſion.

hinder the partie grieued from his restitution out of the Kings Bench. Upon this authoritie, some haue conceiued this generall opinion: that the continuance of three yeeres possession will in no ease protect a man against the Queene, but only against the partie in his priuate action by way of Barre.

Howbeit, if the wordes of the prouiso, and the reason of inserting the same, bee truely weyed, that opinion will not fall out altogether so reasonable, as it hath the shewe to bee faire, and plausible. For the words are, that such an one shall not be endamaged by force of that Statute: and there is no doubt, but that he is deepely endamaged, which is both imprisoned, fined, and put out of his land that he hath so long and quietly possessed.

Againe, when this Statute had in generall termes brought (within the penaltie of 15. R. 2.) all such as should deteine any lands or tenements with Force after that they had peaceably entred into the same: yet was it thought iust, and conuenient, to exempt from that punishment all such, as (hauing entred in peaceable maner) had also continued their possession three yeeres together without any forcible detayner of the same. And therefore, it seemeth to me, that such persons be not onely to take the benefit of that prouiso, in actions vpon the Statute to be commenced against them: but also to vse the aduan-

aduantage of the ſame againſt an Enditement for the Queene, to auoid the impriſonment, and fine, and againſt the partie complainant to debarre him of any Reſtitution by the hande of a Iuſtice of the Peace.

And hereupon Maſter Marrow writeth, that if the three yeeres poſſeſſion be found by the Enquirie, then the forcible deteinors ſhall haue the aduantage thereof againſt the King alſo: which opinion I take to bee very reaſonable, not generally vnderſtood, but ſpecially, and where (as I ſayde) the deteynors did enter peaceably. For ſo was the opinion of Hales, and Portman, Iuſtices, 6. & 7. E. 6. Report Daliſon: and ſo likewiſe was the iudgement of al the Court, 22. H. 6. 8. Neuertheleſſe, the caſe being put (as it is in that booke, 14. H. 7. 28.) both of a wrongfull, and forcible entrie at the firſt, and then of a forcible deteinor alſo (though ſundry yeres continued) I do eaſily agree that ſuch a violent holder ſhould bee denied the protection of this prouiſo, not only in reſpect of the Queen vpon an Enditement, but alſo in regard of the party grieued, touching either his action, or reſtitution: So that the difference will reſt in this (as I thinke) whether that continual poſſeſſion of 3. yeres do immediatly folow a peaceable or forcible entrie. Continuall I ſayd, becauſe Iudge Brooke (*Tit.* Forcible entry. 29) ſeemeth to hold, that if that poſſeſſion by three

peers haue not bene continuall, and without interruption, then (if hee reenter) he cannot holde or deteyne with force, be his right or Title neuer so good, and lawfull. *Collect.* Diar. 141:14.

For the resolution of some part of this Question, and for remedie of a speciall inconuenience that grewe thereby, the Parliament 31. El. Reg. cap. 11. (hauing first written and allowed of that Prouiso in the Statute 8. H. 6.) layeth downe a Law in these words following; Whereas now of late diuers of her Maiesties subiects, hauing entries made vpon their possessions (hauing had such quiet and long possession) for disturbing of such Entrers, and for keeping of their possession against such Enterers by colour of Inditementes of Forcible entrie, of forcible keeping of possession, found against them by meanes of the oathes of such Entrers, haue bene remooued and put out of their dwelling houses and other their possessions, which they haue quietly helde by the space of three yeeres together, or longer time next before such Inditementes found against them, against the true meaning and intent of the sayde prouiso or clause conteyned in the sayd Act. For remedie of which inconuenience, and for true declaration and explanation of the Law therein, Be it ordeyned, delared, and enacted by the authoritie of this present Parliament, that no restitution vpon any Indite-

Inditement of Forcible entry, or holding with force, be made to any perſon, or perſons, if the perſon, or perſons ſo indited hath had the occupation, or hath beene in quiet poſſeſſion, by the ſpace of three yeeres together next before the day of ſuch Inditement ſo found, and and his her or their eſtate, or eſtates therin not ended nor determined: which the partie ſhal and may alleadge for ſtay of reſtitution, and reſtitution to ſtay vntill that be tryed, if the other will denie or trauerſe the ſame. And if the ſame allegation be tried againſt the ſame perſon, or perſons ſo indited, then the ſame perſon, or perſons ſo indited to pay ſuch coſts and damages to the other partie, as ſhalbe aſſeſſed by the Iudges, or Iuſtices before whom the ſame ſhalbe tried: the ſame coſtes and damages to bee recouered and leuyed, as is vſuall for coſtes and damages conteyned in Iudgementes vpon other Actions. 31. Elizab. cap. 11.

And nowe, theſe thinges thus peruſed and paſſed ouer, I will (for the more complete furniture of the Iuſtice of Peace in this ſeruice againſt forbidden Force) arme him with a fewe Precedents, for helpe in his Enquirie, and making of Reſtitution.

The

The Precept to the Sherife, in nature of a *Venire facias.*

GEorgius Riuers, vnus Iusticiariorum Dominæ Reg. ad pacem in comitatu Kanc. conseruandam assignatorum, vicecomiti eiusdem Comitatus salutem: Ex parte dictæ Dom. Reg. tibi mando & præcipio, quod venire facias coram me apud Ightham *in comitatu prædicto 20. die Septembr. proximo futuro 24. probos, sufficientes, & legales homines de vicineto de* Ightham *prædict. quorum quilibet habeat xl. sol. terrarum & tenementorum vel reddituum per annum ad minus vltra repriſas, ad inquirendum ſuper ſacramentum ſuum pro dicta Domina Regina, de quodam ingreſſu manu forti facto in meſſuagium cuiusdã* A.B. *apud* Ightham *prædict. contra formam Statuti in parliamento domini* H. *nuper Regis Angliæ ſexti anno regni ſui octauo tento, editi, vt dicit: Et videas quod ſuper quemlibet Iuratorum per te in hac parte impanellandorum xx. ſolid. de exitibus ad præfatum diem returnes: & hoc nullatenus omittas ſub pœna xx. lib. quam noueris te incurſurum, ſi in executione præmiſſorum tepidus aut remiſſus fueris: Et habeas ibi tunc hoc præceptum. Teſte me præfato* G. R. *10. die Septemb. Anno regni Dom. noſtræ Eliz. Dei gratia Angl. Fran. & Hib. Reginæ, fidei defenſoris, &c.*

And vpon default of apparance of theſe Iurors, an alias may be awarded, and after that pluries

pluries infinite, till they come: but so, that at the day of the second Writ 40. s. must be returned, at the third Writ 100. s. and at euery day after, the double.

The Inquirie (or Verdite) of the Iurors.

INquisitio pro domina Regina capta apud Ightham *in comitatu Kanc. 29. die Iuly, anno regni Dominæ nostræ Elizabethæ, Dei gratia, Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defensoris, &c. Per Sacramentum*, A. B. C. D. E. F. &c. *coram Thoma Fane milite, vno Iusticiariorum dictæ Dom. Reginæ ad pacem in dicto comitatu conseruandam, necnon ad diuersa felonias, transgressiones, & alia malefacta in eodem comitatu perpetrata audiendum & terminandum assignatorum: Qui dicunt super sacramentum suum prædictum, quod* C. D. *de* Ightham *prædict.* Yeoman, *diu legitimè & pacificè seisitus fuit in Dominico suo vt de feodo, de, & in vno messuagio, &c. cum pertinentijs in* Ightham *prædict. & possessionem ac seisinam suam prædict. sic continuauit, quousq;* A. B. *de & c. & alij malefactores ignoti primo die Septembr. vltimo elapso, vi & armis, viz. cum baculis, gladijs, arcubus, & sagittis, in messuagium prædict. &c. intrauerunt, ac ipsum* C. D. *inde dissesiuerunt, & manu forti expulerunt, & eundem* C. D. *sic dissesitum & expulsum ab eodem messuagio, &c. à prædi-*

prædicto primo die, &c. vsque ad diem captionis huius inquisitionis cum huiusmodi fortitudine & potentia armata extrà tenuerunt, & adhuc extrà tenent, in magnam pacis dict. Dom, Reginæ perturbationem, ac contra formam Statuti in parliamento domini Henrici nuper Regis Angliæ sexti, anno regni sui octauo tento in tali casu editi & prouisi: vbi nullus eorum, nec aliquis alius cuius statum ipsi aut aliquis eorum habuerunt aut habuit, aliquid in eodem messuagio, &c. aut in aliqua inde parcella habuerunt, aut habuit, infra tres annos proximos ante ingressum suum prædictum, neque alio tempore præcedente ad notitiam Iuratorum prædictorum.

The Warrant to the Sherife for the making of Restitution, if the Iustice himselfe will not make it.

THomas Fane, miles, vnus Iusticiariorum, &c. assignatorum: Vicecomiti eiusdem comitatus Salutem: Cum per quandam Inquisitionem patriæ coram me captã apud Ightham *in comitatu prædicto, 29. die Iulij, &c. super sacramentum* A.B.C.D.E.F. *&c. ac per formam Statuti de ingressibus manu forti factis in tali casu prouisi compertum fuit, quod* A.B. *&c. & alij, &c primo die Septemb. &c. in quoddam messuagium, &c.* C.D. *&c. in* Ightham *prædict. vi & armis ingressi sunt, ac ipsum* C.D. *inde tunc manu forti*

dissesiue-

disseſiuerunt & expulerunt, & prædictum C.D. *ſic expulſum à prædicto meſſuagio, &c. à prædicto primo die Septemb. &c. vſq; ad diem captionis Inquiſitionis prædictæ, manu forti, & cum potentia extra tenuerunt, prout per Inquiſitionem prædictam pleniùs liquet de Recordo: Ideo ex parte dict. Dom. Reg. tibi mando & præcipio, quod (ad hoc debitè requiſitus) vnà cum poſſe comitatus tui (ſi neceſſe fuerit) accedas ad meſſuagium & cætera præmiſſa, ac eadem cum pertinentijs reſeiſiri facias, & præfatum* C.D. *ad, & in plenam poſſeſſionem ſuam inde, prout ipſe ante ingreſſum prædictum fuerat ſeſitus, reſtitui, & mitti facias, iuxta formam dicti ſtatuti: & hoc nullatenus omittas, periculo incumbente. Teſte me præfato, &c.*

The execution of a *Writ* vpon the Statute of *Northhampton.*

I come now (at length) to the performance of that promiſe which I made concerning the ſtatute of *Northampton:* for that alſo is of late dayes frequently put in vſe for the puniſhment of Forcible Entries. That Law (in effect, and for this purpoſe) is thus: No man whatſoeuer (except the Kings ſeruants and Miniſters, in his preſence, or in executing his preceptes, or their Offices, and ſuch as ſhall aſſiſt them: and except it bee vpon crie, or proclamation made for armes, to keepe the Peace, and that in places where ſuch actes doe happen) be ſo hardy to come before the Kings Iuſtices, or other his Miniſters, doing their offices, with force and

and armes: Nor bring any force in affray of the countrie: nor go, nor ride armed, by night, or by day in faires or markets, or in presence of the Iustices or other ministers, nor in any place elsewhere, vpon paine to forfeit his Armour to the King, and his body to prison at the Kings pleasure, 2.E.3.cap.3.

Vpon this Statute, he that is put out, or holden out of his land with force, vseth to haue at this day a Writ directed out of the Chancery, either to the Sherife onely (as M. Fitz. in his Nat. Bre. Fol. 249. rehearseth it, for I finde it not in the Register of Writs) or else *Custodibus pacis, ac Vicecomiti, & eorum cuilibet*, (as the commō manet is) commanding, that Proclamation be made vpon this Statute, and that if any be afterwarde founde offending against the same, then they shall bee committed to Prison (there to remaine vntill that some other commaundement bee giuen concerning them) and that their armour and weapon shall bee prised, and the same answered to the vse of the Queenes Maiestie.

But, forasmuch as that Iustice of Peace, (to whom this Writ shall be deliuered) is to make execution of the same, as a Minister onely: and is to Certifie his doing therein: I thinke good, to lend him these few helps towards it.

At his comming to the place, where the force is supposed by this Writ, hee may cause three Oyes for silence to bee made, with this, or such

such an other Proclamation.

THE Queenes Maiesties Iustice of her Peace straightly chargeth, and in her Maiesties name commaundeth, all and euery person to keepe silence, whilest her Maiesties Writ vpon the Statute made at *North.* in the second yeare of King E. 3. her noble Progenitor (deliuered to the said Iustice) to be read, and Proclamation bee thereupon made accordingly.

Then may hee reade the Writ, or declare the effect thereof in English.

After that, let three other Oyes be made, and thereupon may this Proclamation follow.

HER Maiesties sayd Iustice, doeth in her Highnesse name, and by vertue of her sayde Writte, straightly charge and commaund, that no manner of person, of what estate, degree, or condition soeuer, nowe being within the house of *B.* &c. named in the sayde Writ, shall goe armed, nor keepe force of armour or weapon, nor do any thing there, or elsewhere, in disturbance of her Maiesties Peace, or in offence of the saide Statute, vpon the pains of loosing his said armour and weapon, and of imprisoning his body at her Maiesties pleasure.

God saue the Queene.

This done, the Iustice may enter, and search whether there be any sorte of armour or weapon worne or borne against this Proclamation: or otherwise he may enquire thereof by a Iurie, for so the Writ it selfe doeth warrant him to do: and if any such be found, hee ought to imprison the offendors, and to seize and praise the armour and weapon so found with them. But if (vpon the Proclamation made) they doe depart in peaceable maner, then hath he no warrant by the Writ to commit them to prison.

But nowe let me shew him a Forme of Certificate (or returne) of this Writ into the Chancerie, and then make an end.

Vpon the Writ it selfe these words may bee Endorsed.

Executio istius Breuis patet, in quadam Schedula eidem Breui consuta.

And the Scedule may be thus:

EGo Rogerus Twysden armiger, vnus custodum pacis Dom. Reginæ in comitatu Kantiæ, certifico, in Cancellariam dictæ Dom. Reginæ, quòd virtute istius Breuis mihi primò deliberati, 10. die Ap. anno &c. publicè proclamari ex parte dictæ Dom. Reginæ feci, apud B. *cuius in dicto Breui fit mentio pront in dicto Breui præcipitur: Et quod quidam* A. C. *&* D. E. *de* F. *in comitatu prædicto* Labourers, *prædictam proclamationem parui pendentes, post proclamationem prædict.*

prædict. ibidem sic factam armati inerunt, ac armatam potentiam ibidem duxerunt, scilicet duas galeas, vnum arcum, & decem sagittas, duos gladios, & totidem pugiones, in perturbationem pacis dicta Dom. Regine, ac terrorem populi sui, necnon in contemptum Statuti in dicto Breui specificati, manifestum: Ac proinde, dict. A. C. & D. E. vna cum armaturis suis prædictis arrestari ac seisiri, & eorum corpora ad proximam prisonam dicta Dom. Reg. in comitatu prædict. duci feci, ibidem moratura donec aliud à dict. Domina Regina pro ipsorum deliberatione habuero in mandatis. Armaturas etiam eorum prædict. appretiari feci, per A. B. C. D. & E. F. de B. prædict. Yeomē, ad hoc iuratos: qui dicunt super sacramentum suum prædict. quod prædicta dua galea valent 10. sol. Et quod dict. arcus & 10. sagitta valent, 6. sol. Et quod gladij prædict. valent 20. sol. Et quod dicta pugiones valent 5. solid. & sic quod armaturæ prædict. valent in toto 41. solid. de quibus paratus sum respondere secundum tenorem dicti Breuis. In cuius rei testimonium, huic præsenti certificationi meæ sigillum meum apposui. Dat. apud B. prædict. die & Anno supradictis.

By this you haue seene, what one Iustice of the Peace ought to doe in execution of this statute as a Minister: and by the same you may also see, what he may doe therein of himselfe, *Ex officio*, as a Iudge, and without any Writte brought vnto him.

For not only by the plaine words of the Statute of *Northampton*, the Wardeins of the Peace, haue power (within their Wardes) and are cõmanded to execute this Acte vpon a paine: But also by good implication in the Commission it selfe, euery Wardein of the Peace hath the Statute of *Northampton* committed to his charge. So that both in the matter and maner, the doing is all one, sauing that (if he doe it as a Iudge) he needeth not to make any Proclamation (the Statute being a prohibition in it selfe) nor yet to sende any Certificat into the Chancerie, but onely to make his owne Record of that which he shal doe in this behalfe, and thereout to send some estreit into the Eschequer, that the Queene may be answered of the Armour, or of the value thereof.

And heere (perhaps) the redemption of the imprisonment, may bee at the discretion of the same Iustice, euen as in the former Statutes of 15. R. 2: & 8. H. 6. it seemeth to be: but therin mine aduise shall bee the same, that I gaue them before: Adioyning this, that in the execution of this Statute of *Northampton*, the Iustice of the Peace hath to doe with remouing of the force onely, and may not meddle with anie restitution of the possession.

Of

Of other breaches of the Peace,

with a multitude: as by *Riot*, *Route*, or o-*ther vnlawful* Assembly, &c. *and what* any one Iustice of the Peace may doe therein out of the Sessions.

Cap. v.

OVr Parliaments, seeing well that the assembly of manie for breach of the Peace, offereth more danger and hurt, both generally to the Common wealth wherein it happeneth, and particularly to him against whom it is bent, then the force of anie one or two turbulent persons can bring, haue no lesse carefully endeuoured to suppresse the one, then wisely foreseene to preuent and punish the other. And therefore, not onely the Commission giueth power to enquire of Conuenticles against the Peace, but sundry Statutes also haue deuised many meanes & paines to meete with, and to punish the same: whereas before, they were punishable onely, as other trespasses, though sometimes by a greater, and sometimes by a smaller fine, as the case it selfe required. Conuenticles

But vnlawfull Conuenticles bee not all of one sorte: for sometimes those are called Conuenticles, wherein many doe impart with others their meaning to kill a man, or to take one anothers part in all thinges, or such like:

Champerties also, Maintenances, Conspiracies, Confederacies, and giuing of Liueries to (other then to Meniall seruants, and Officers) be contained vnder the worde Conuenticles, saith Mar. And it appeareth, (27.Li.Ass.Pl.44.) to be one of the Articles enquirable in the Kings Bench, whether any persons doe take others to their Auowment and protection, and do receiue of them rentes (or other gifres) yearely in the name of Chyuage (or rather Cheifage) because they seeme to take vpon them to bee their Cheifs, heads, or leaders.

Chyuage.

But, forasmuch as all these conuentions may be without any apparant shewe of Assembly against the Peace (though otherwise they be finable offences vnder the name and calling of Conuenticles, (as Marrowe thinketh) I will leaue them, & resort to those other that the Commission saith to be done, *Vi armata*, and that doe bring manifest terrour vnto the Subiect.

Of these, some consist of a number of people, gathered together disorderly for the cause of some one, or of a few persons, and doe not breed any generall or present daunger to the Estate or Gouernment, and yet be against lawe, and be called Riots, Routs, and assemblies against the lawe: against which, the Statutes 13.H. 4.cap.7: 2.H.5.ca.8: & 19.H.7.cap.13. were specially prouided: and before that the penaltie of the Statute of *North.* 2.E.3.cap.3. was laide

laide vpon them by.2.R.2.cap.6.

But others there be, that do sauour of a more generall disobedience, and be (in regard of the number, or quarell) a very Seede of Rebellion if not the Weede it selfe: and are therefore also somtimes called Rumors, great Ridings, Routs, and Riots against the Peace: 5.R.2. cap. 6: 7. R.2.cap.2,& 6: somtimes Assemblies of people in great number, in maner of Insurrection: 2.H.5.cap.9. and sometimes Rebellious Insurrections and Rebellious Assemblies, 15. R. 2. cap.2: 8.H.6.cap.14: and 1.Mar. Parl. 1.cap. 12. Of all which (so farre forth as the Iustices of Peace haue interest in them) I will intreate, but yet seuerally, and so, as either one, or moe of these Iustices haue to doe with them, and that out of the Sessions.

They of the first kinde be, as I haue sayde, commonly called Vnlawfull assemblies, Routs and Riots: concerning the proper difference betweene euery of which, all men doe not altogether agree. And therefore (reiecting all diuersitie of opinions) I will follow that which I take to bee most probable, and at this day most commonly receiued. Wherin neuertheles I submit my pen to the experience of the Starre chamber, as to the best guide and direction that the Iustice of Peace can haue to follow.

An vnlawfull Assembly, is the companie of three or moe persons, disorderly comming Assembly.

together, forcibly to commit an vnlawful act: as, to beate a man, or to enter vpon his possession, or such like.

Route. A Rout (saith Marrow) is such a company, so assembled, for their owne common quarel: as where the inhabitaunts of a township come forcibly together to throw downe a hedge, ditch, or pale, in claiming their Common: or to beate a man that hath done vnto them some publike offence, or displeasure. But the Statute (18. E. 3. Stat. 1.) speaking of Routes that are brought into the presence of the Iustices; and the Statute (2. R. 2. cap. 6.) that treateth of riding in great Routs to make entrie into lands, to beat men, or to cary away their wiues, &c. doe seeme to vnderstand the worde Route in a more ample and large meaning. And therefore I will describe it thus: A Route is a disordered assembly of three or moe persons, mouing forwarde to commit by force an vnlawfull acte. For it is a Route, whether they put their purpose in ful execution, or no, if so be that they doe goe, ride, or moue forward after their first meeting. *Brooke.* Riot. 4. & 5. And thereby it seemeth to me to be the very same, which the *Germanes* doe yet call Rot, that is, a troupe, or bande of men, that doe ride, or go forward.

Riot. A Riot, is thought to bee, where three or moe persons, be disorderly assembled to commit with force any such vnlawfull acte, and do accor-

accordingly execute the same. This I think to be deriued from the French worde Riotter, signifying to scold, or brawle, because such maner of actes bee commonly accompanied with words of brawle.

And thus (vpon the whole reckoning) an vnlawfull assembly is the first degree, or beginning: a Route, the next step, or proceeding: and a Riot the ful effect and consummation, of such a disordered and forbidden action.

Things that be common to Riots, Routs,&c.

But howsoeuer that stand, two special things there are, that be common and must concurre, both in the Vnlawful assemblie, Route, and Riot: the one, that three persons (at the least) bee gathered together: for so it is commonly holden at this day, as I haue learned: the other, that their being together doe breede some apparant disturbance of the Peace, either by signification of Speach, shew of Armour, turbulent Gesture, or actuall and expresse Violence: so that eyther the peaceable sort of men be vnquieted and feared by the Fact, or the lighter sort and lusie bodies be emboldened by the Example.

Things, that bee considerable in Riots, Routes,&c.

And in these matters, not onely the Fact it selfe, but also the Maner of doing the same, falleth sometimes iustly into consideration: in so much as, the lawfulnes, or vnlawfulnes, of the thing it selfe that is done or intended, doeth not alwaies excuse or accuse the parties to a Riot, Route, or Vnlawfull Assemblie, but so, that the

Order and Circumstance of the doing, must also be brought into iudgement with it.

The maner.

And therefore (saith M. Marrow) the maner of the doing of a lawfull thing, may make it vnlawfull: As, if many in one company (riding, or going, to the Sessions, Faire, Market, or Church it selfe) will ride, or goe armed, to the terrour of the people. For although it bee not only lawful, but meet, and necessary also to goe to the Church and Sessions: yet, to go in such a shew, it is altogether needles, disordered, and against the Law. So, if three (or moe) shal enter into land with force, where their entrie is otherwise lawfull. And contrariwise, an Assembly to do a wrong (saith he) may be so handled, that it shall proue none of these offences: as, if I gather meet company together, to carry away a piece of Timber (which will not bee moued without a good many) wherto I pretend right, though in law it be an other mans. And so also to do an vnlawfull thing: as if many do meete to play at bowles, tables, or cardes, and do vse no misbehauiour against the Peace, they are not punishable in this degree. And yet, if hee that carieth the piece of timber away, will vse dreadful words, as to say that he wil carry it in spight of him that hath it, or that he wil haue it, though he die for it, or such like, his doing may then become a Riot. Mar.

The purpose.

Furthermore, the intention and purpose of those

those that be assembled, is worthy the weighing. For, to vse harnes on Midsomer night in *London*, or on May day in the countrey (for sport only) is no such offence, seeing no terrour followeth of it: and the words *in terrorem populi*, seeme to be materiall in an Inditement of this kind. So if the Shirife or his Bailife doe leuie people to serue the Queenes Writs of *Capias*: or if a Constable doe gather assistaunce of men with weapon to part an Affray, it maketh no Riot. 3. H. 7. 1, & 10. So if a man (hearing that another will fetch him out of his house and beate him) do assemble company with force, it will be no vnlawfull assemblie: for his house, is his Hold and Castle. But, if he be onely threatned, that he shal be beaten if he go to the market, then may he not assemble companie for his ayd: because he needeth not to goe thither, and hee may prouide for himselfe by Suertie of the Peace. 21 H. 7. 39. Fineux.

And if many be assembled, and none of them knoweth to what ende, it can make no Route, nor Riot (as M. Marrow thought) til the intent be knowen. For if the master intend to make a Riot, and take his vsuall seruantes with him, not foretelling them what he intendeth to doe, and then committeth an outrage with them, this is no Riot in them: for although he shal bee punished, they shall be excused. But otherwise it is, if he make them priuie to his purpose,

for

for then they also shall bee punished: Marrow and Report Dalison. And in the former case it is not materiall, whether his number of seruants bee aboue his degree or no, so long as they be his Menials, or household men. Dalison.

If many be at an Alehouse, a Christmas dinner, or Churchale, and (without any intention of an Affray) they sodainely fall together by the eares, and make it *Lapitharum conuinium*, yet this is no Riot, but a sudden affray, because they had no such intention: But if (in that affray) they shall betake themselues to sundry partes, it may become a Riot, as Mar. thinketh: for then it is not the first, but a new assembly, as I take it.

And if 12. Iurors (being committed to their keeper) doe fall out and fight, sixe against sixe, this maketh no Riot (sayth Marr.) because they were lawfully assembled, and were compelled to be in company together.

But, if a number of women (or children, vnder the age of discretion) doe flocke together for their owne cause, this is none assemblie punishable by these Statutes, vnlesse a man of discretion mooued them to assemble for the doing of some vnlawfull act, as M. Marrow writeth: Yet I remember well, that (not many yeeres ago) sundry women were punished in the Starre Chamber, and that worthily: because, putting off that shamefastnesse which beseemeth their sexe,

sexe, they arrayed themselues in the attire of men, and (assembling in a great number) they most Riotously pulled downe a lawfull inclosure:

Finally, Marrow noteth, that if the Maior and Communaltie of a towne doe assemble and make a Route in their common quarell, this offence shall be iudged and punished in their Naturall persons, and not in their body politike.

Thus farre you see, what these offences bee, and in what maner they may bee committed: now therefore behold what power one Iustice of the Peace hath ouer them.

The power of one *Iustice* of the Peace, in Riot, &c.

One Iustice of the Peace, can neyther make enquirie of a Rout or Riot when it is done, nor assesse any Fine, nor yet award any processe for it, nor other wise meddle with it (in the very nature of a Route or Riot) but onely as a Trespasse against the Peace, or vpon the Statutes of *Northampton*, or of Forcible entries, whereof I haue before treated.

And therefore, if he heare of any Route, or of any intention of a Riot, hee alone (or with his seruaunts) may goe to the place, and such as he findeth Riotously assembled and armed, he may arrest to find Suertie of their Good abearing, and may commit them to Warde, if they refuse to giue it, and may take their weapons from them: And if he come to the place, and doe not find them yet commen thither, he may leaue his ser-

seruantes there, to make such arrest when they shall come: So also, if he be sicke, he may send his seruants to the place to arrest them.

And this is the iudgement of all the Court, in that case of Sir Thomas Greene, 14.H.7.8. in the booke at large: grounded vpon the wordes, both of the Commission of the Peace, and (as I take it) of the Statute, 34. E.3.cap. 1: For, that which is found in the report of that same case made by Fitzher. *tit. Iust. del* Peace 9.) hauing many other matters (not extant in the booke of the Termes) seemeth rather to pertaine to the Statute 13.H.4.cap.7. then to this Statute of E.3.

But, if one Iustice of the Peace alone, will take vpon him to Record a Riot that hee seeth, the partie shall not be concluded thereby: for he may trauerse it: and if the Iustice will commit one to Ward, pretending vntruely that he did a Riot, where he did none, an Action of trespasse lyeth for the partie against him. Fitzh. *tit. Iust. del P.9.*

So that (vpon the whole matter) one Iustice of the Peace alone may doe somewhat to preuent a Rout or a Riot, before it be done, and for the stay of it whilest it is in doing, but nothing (in effect) to punish it as a Riot, or Route, when it is commited and done. For (as Iudge Fineux saith) in that case of Sir Tho. Greene, the Statute (which I take as I sayd to bee that of

34.

34. of E. 3. rather then 13. H. 4. which by expresse words requireth the presence of two Iustices at the least) was giuen as a hastie remedy, and for to preuent a mischiefe being imminent and before the eye: and therefore the Law shall largely construe the authoritie of a Iustice of Peace in that behalfe: So that he shall neyther need to make any Precept in writing, nor to expect the comming of his Companions, nor to be present in his own person, but may vse all reasonable meanes for preuention and stay of the euill. And yet the ordinarie power of punishing Routs, and Riots, resteth not in his hand, but rather belongeth vnto two Iustices of the Peace, as it shall hereafter appeare.

In the meane while, it shall not bee amisse to adioyne somewhat for Supplie out of the Statutes of our owne age: the which, seeing further into the perils that ensue of these disordered companies, haue also prouided further, as well in pollicie to preuent, as in seueritie to punish them.

Rebellious and vnlawfull assemblies.

The statutes (1. Mar. Parl. 1. cap. 12: & 1. El. c. 17.) do make three degrees of Riotous and Seditious Assemblies, in certaine special cases: the first, consisting of the common number of three persons, and being vnder the numbet of twelue: the second of twelue persons or more: and the third of fortie persons and vpward: All which, are to bee punished diuersly, according to the

the number, intent, act, and obstinacie of the parties assembled: wherin there is some imitation of an ancient law that K. Ina made against theeues, whose degrees in offence he also seuered and punished by their number, saying thus: Ðeoꝼ ꝼ ꝑe hataþ oððe ꝼeoꝼan menn ; ꝼꝛam ꝼeoꝼan hloþ.oþ ꝼiꝼ ⁊ þꝛittig; ⁊ ꝼyððan heꝛe; that is, Theeues, we call them vntill the number of seuen men: from seuen, a Troupe, vntil 35: and an armie, aboue that number. But I will proceede.

Proclamation.

One Iustice of the Peace therefore, may (by vertue of these Statutes) make or cause to bee made, a Proclamation in the Queenes name, (after three Oyes) thus: The Queene our Soueraigne Ladie chargeth and commaundeth all persons being assembled, immediately to disperse themselues, and peaceably to depart to their habitations, or to their lawful busines, vpon the paines conteined in the Acte lately made against vnlawfull and rebellious assemblies: And God saue the Queene. And he also may (at his discretion) assemble her Maiesties subiects to take them: and may take them in deed if they disobey: and shall be vnpunished for the hurting, mayming, or killing of any of them, if they make resistance. He also is to take the declaration of any person, that (being mooued to any such assemblie) will within 24. houres after reueale the same vnto him:

Now

Now muſt I here ſtay, and (for a time) goe no further with theſe aſſemblies: becauſe the power of one Iuſtice of the Peace faileth mee, and extendeth no further in them: therefore the reſt ſhall be diſcloſed, when order ſhal lead vs to intreat of the authoritie of two Iuſtices.

What other things any one *Iuſtice* of the Peace alone, may doe out of the *Seſſion*, by vertue of Statutes mentioned in the *Commiſſion*.

Cap. VI.

Before that I ſhall deſcend to ſhewe ſuch further partes of power as bee giuen to one Iuſtice of the Peace by latter Statutes, it ſhal not be amiſſe to take in my way, that remnant of his authoritie which lieth cloſed in the firſt *Aſſignauimus* of the Commiſſion, and hath not bene yet fully applied to the practiſe. Statutes lying cloſe in the Commiſſion.

The whole conſiſteth of ſuch members as I haue already ſhewed, namely, of the Statute made at *Wincheſter*, 13. E. 1. of the Statute made at *Northampton* 2. E. 3. ca. 3. the Statute made at *Weſtminſter*, 5. E. 3. cap. 14. and the Statute made at *Cambridge*, 12. R. 2.

Of that Statute at *Northampton* I haue heretofore ſayd what I thought. Concerning *Win-*

Winchester and *Westminster*, and the rest, I say shortly now, that by the forme of the Cõmission one Iustice of the Peace may put the articles of them in execution: First, by commanding fresh sute, hue and crie, and search, to be made by the Shirifes, Bailifes, and others, after thefts and robberies: by enioyning watches to be kept for arresting of suspected persons, and of night-walkers: and high wayes to be enlarged: Then by seeing, that two Constables bee chosen in each Hundred and Franchise: by forbidding Faires and Markets to bee holden in Church-yards: by compelling such as bee betweene the age of fifteene yeres & threescore, to bee sworne to the Peace, for that also is in the Articles vpon the Statute of *Winton*: and lastly, by charging the Constables to arrest such as shall bee suspected to be Drawlatches, Wastours, or Robertsmen, that is to say, either miching, or mightie theeues: for the meaning must remaine, howsoeuer the word be gone out of vse.

And I do not thinke, that any other maner of execution of these lawes (by one Iustice of the Peace) ought to bee gathered by the generall words of the first *Assignauimus*.

I know, that M. Fitzh. (in his Nat. Bre. Fol. 82.) sayeth, that albeit a Iustice of the Peace hath none expresse authoritie within his Commission to take a Recognusance of the Peace, yet of Congruence it followeth, that hee may take

take it, because hee hath authoritie in playne wordes, to cause the Peace to bee kept, and to compel men to find Suertie for the same: And it is a Rule of law, *Concesso vno aliquo, etiam id concedi videtur, sine quo prius concessum haberi nequit:* But how far these things may be drawen, I will not determine, remembring, that this also is another Rule, *In generali concessione non veniunt ea quæ quis non esset verisimiliter in specie concessurus.*

This (to be plaine) I doe not like, that one Iustice of the Peace shoulde take vpon him to bind an offendor against any Penall Law, (being within the power of Iustices of the Peace, but yet neyther comprehended in the Commission, nor committed to the charge of any one of them) to appeare at the Sessions, to answere to his fault. For, although I haue seene sundrie old Precedents of Attachments made from one Iustice of the Peace against Labourers, to bee before the Iustices at their Sessions, to answere to their contempts: yet I am not perswaded, that the like may be done against the offendors of other Statutes, vnlesse it be specially therein so appointed: no more then it might haue bene done in that case of Labourers it selfe, had not the Statute of Labourers 25. E. 3. cap. 6.) expressly commanded it.

And I doubt not, but they of the late Parliament were also of this minde with mee: For,

if they had thought it generally lawful so to do, they wouldnot haue so specially prouided for it, as you shall anone see in the notes of the Statutes. 5. El. touching Seruants, and (23. Eli.) against Slaunderous newes, and against the taking of Pheasants and Partriches. And surely much harme followeth of it, for it falleth out most commonly in experience, that those Iustices which be most lusty to take such bonds, bee no lesse ready to release them: and so (playing fast and loose) they keepe (as it were) priuie Sessions within their owne houses; in which, both the Queene looseth her Fine, and the common wealth an example: and if the offendour loose also, then that (belike) falleth to the share of him that worketh the deliuerance.

And therefore, it were better (as I weene) that such offendors were first Endited, and then that Processe were orderly awarded agaynst them, vntil that eyther they yeelded themselues, or were taken, or outlawed.

There is an other thing also, whereof I thought meet to admonish the Iustices of Peace, in this place. Many of them doe vse to giue out their Preceptes to attach persons suspected of Felonie, to the end to haue them brought before them: which thing is neither newly deuised by them, nor done without colour: for they haue such a Precedent in the old booke of Iustices of the Peace, Fol. 41: and there is no doubt, but

that

that if a Felonie be done, euery man may arrest whom soeuer he suspecteth of it. But for al that, the whole Court (14. H. 8. 18.) condemneth such Precepts: because, if the Bailife, which serueth the Warrant, haue suspicion in the partie, he may of himselfe (without the Warrant) arrest him: and if he haue not, then is the Warrant of a Iustice of Peace no Warrant to arrest him, vnlesse he be endited before.

What other things one *Iustice* of the Peace may doe, out of the *Sessions*, by the power of other Statutes, not mentioned in the *Commission*; and therewithall of Manslaughter, and of all other Felonies.

Cap. VII.

SEeing the whole power of one Iustice of the Peace (as well in the very businesse of the Peace it selfe, as in the execution of some Statutes implied in the Commission) hath now at length beene rehearsed: It is conuenient to summe vp such other partes of authoritie also, as other Statutes haue put into his handes: which done, wee will no longer treat of one Iustice alone, but will associate some other vnto him.

Any one Iustice of the Peate.

Conseruator of Riuers.

Euerie Iustice of the Peace is a Conseruator of Riuers within his Countie: and (when he may attende it) ought to suruey the Weares in Riuers, that they be of reasonable wideneſſe, and shall suruey the offences of taking Salmons in any Waters (out of the Countie of *Lancaſter*) betweene the Natiuitie of the Virgin Mary, and Saint Martins day, and (there) betweene the feasts of Saint Michael, and the Purification of the sayde Virgine: and of taking yong Salmons at Mill Pooles, or other places, from the midſt of Aprill till Midſommer: and of casting Nets into any Waters, (by which the frie of any fish may be taken) and punish the same by burning of their Nets and engines, *Weſtmonaſt.* 2. cap. 47: 3. R. 2. cap. 19: & 17. R. 2. cap. 9.

Apprentices, seruants and labourers

One Iustice of the Peace may take vpon him to heare and order the controuersies, betweene Masters and seruaunts, touching their departure, and may allow of the reason, and sufficiencie of the cause, for which a Master may put away his retained seruant, or the seruaunt may depart before the ende of his terme: and may in (Hay time, or Haruest) vpon request, and for the sauing of Corne, graine, or hay, cause such Artificers, and persons (as be meete to labour) by his discretion, to serue by the day, for the getting, cutting, inning, or carying thereof, according to the skill and qualitie of the person:

perſon: and may (vpon his refuſall) impriſon him in the Stockes by the ſpace of two dayes and one night. And his teſtimoniall vnder his hand and ſeale to ſuch as may paſſe in May and Haruеſt time, from one ſhire to another, is ſufficient. And he alſo vpon complaint made, may commit that partie to Ward, that in his iudgement ſhall bee thought meete, and yet ſhall refuſe to be bound as an Apprentice, according to the intent of the Statute, there to remaine vntill he be contented ſo to bee bound. And alſo may by his diſcretion vpon the complaint of the Apprentice, take order betweene his Maſter and him, and for want of conformitie in the Maſter, may bind him to appeare at the next Seſſions before the Iuſtices, 5. Eliz. cap. 4.

If any ſuch perſon, as is declared to bee a Rogue, Vagabond, or ſturdie Beggar, by the Statute 14. Eliz. cap. 5.) being aboue the age of foureteene yeeres, ſhall be taken begging, or wandring, or miſuſing himſelfe, contrary to that Act, and be brought before a Iuſtice of the Peace, hee is preſently to commit him to the common Gaole, or to ſuch other place, as ſhall be by the Iuſtices of the Peace, (or three of them) at their generall Seſſions appointed therfore: to remaine there (without baile, or mainpiſe) till the next Seſſions of Peace, or generall Gaole deliuerie, which ſhall firſt happen. Rogues and Vagabonds.

The Regiſter booke of the Poore within Poore people.

each diuision of the Iustices of Peace, is to remaine with one of the Iustices of that diuision. And eyther of those two Iustices before whom the Collectours for the poore are appointed to make their account, may commit him (that shall refuse or neglect to make his account, by the space of foureteene dayes after request to him thereof made) to the next Gaole there to remayne without bayle or mainprise, till hee hath made it, and payed the surplusage of his receit, 14. Elizab. cap. 5. & 27. Elizab. cap. 11. Learne if the Register booke is to haue continuance still.

Hunting. Upon information to any Iustice of Peace, of any vnlawful hunting by night, or with painted faces, or other disguising (in Forest, Parke, or Warreine) of any person to bee suspected therof, that Iustice may make a Warrant to the Shirife, Constable, Bailife, or other Officer, to take the partie, and to haue him before him, or any other Iustice of the Peace in that County, who may examine him of that hunting, and of the doers in that behalfe: and if he do wilfully conceale that hunting, or any person with him defectiue therin, then the same concealment shal be Felony in such concealor: but if he confesse the trueth of all that he shal be examined in that behalfe, then his offence of hunting, shall bee but Trespasse, and Finable at the next generall Sessions of Peace there, 1. H. 7. cap. 7.

Euerie

Euerie Iuſtice of the Peace, may (as well within Liberties as without) enter into any common houſe or place, where any playing at the Bowles, Coytes, Cloſh, Cailes, halfe Bowles, Tennis, Dice, Cardes, Tables, or at any other game prohibited by any former Statute (of which ſort bee Footeball, and caſting of the Stone by 12. R. 2. 10.) or playing at any vnlawfull game (already inuented, or hereafter to be inuented) ſhall bee ſuſpected to be vſed againſt this Statute: and may arreſt as well the keepers of ſuch places, as the players there, and impriſon them vntill thoſe keepers find Suerties to the Queenes vſe (to be bound by a Recognuſance, or otherwiſe) no longer to occupie any ſuch play or place: and that the perſons found there playing, bee in like ſort bound by themſelues, or with ſuerties (at the diſcretion of the taker) no more to play, or haunt, at or to any of the ſayde places, or at any of the ſayde games. And euery Iuſtice of the Peace, finding or knowing any perſon (not excepted by this Statute) to vſe any vnlawfull game, contrary to this Acte, may commit him to Warde, there to remayne without Bayle or Mainprize, vntill he become bound by Obligation to the Queenes vſe (in a ſumme to bee thought reaſonable to that Iuſtice) that he ſhall not from thenceforth vſe ſuch vnlawful games: 33. H. 8. cap. 9. Vnlawfull games.

Tile.

Any one Iuſtice of Peace (by the large words of the Statute) may enquire, heare and determine by his diſcretion, as well by examination as otherwiſe, the offences committed in Tilemaking, and aſſeſſe the fine therin limited. And may call before him (at any time or place) ſuch as haue beſt knowledge in Tilemaking, and appoynt them Searchers of the ſayde deſaultes, 17. Ed. 4. cap. 4. But learne whether it be ſo to be taken, or no.

Souldiours ſelling horſſe, or harneſſe.

If any Souldiour, ſeruing the Queene in her Warres, doe ſell, giue away, wilfully purloine, exchange, alter, or put away, any Horſſe, Gelding, Mare, or Harneſſe, wherewith he ſhal bee ſet forth, or which (being taken from any other Souldiour) ſhall be appoynted vnto him, and doe eſcape the puniſhment, which the Lieutenaunt, high Admirall, the Kings Deputie, the Viceadmirall, Wardein, and Captaine, and their Deputies, in their abſence may lay vpon him, by this Statute: then vpon complaynt and due proofe of the offence to bee made by the owner, his Executours, or Adminiſtratours, to any Iuſtice of Peace, where ſuch offendor ſhall bee found, hee ſhall by him bee committed to Ward, there to remayne (without Baile or mainprize) till he ſhall haue ſatiſfied the owner, his executors, or adminiſtrators of ſuch Horſſe, Gelding, Mare, or harneſſe ſo ſold, giuen away, &c. vnleſſe hee bring with him before the ſame Iuſtice,

Iuſtice, ſufficient teſtimonie from the ſaid Lieutenant, or any of the perſons aboue named (in writing vnder their Seale) teſtifying, that the ſaid Horſe or Harneſſe, was loſt in the Queenes ſeruice againſt the will of that Souldiour, or was taken by any of them from him for any reaſonable reſpect, and appointed to ſome other to ſerue withall, 2. & 3. Edw. 6. cap. 2.

Agnus Dei.

If any perſon (to whom any *Agnus Dei*, Croſſe, Picture, Bead, or ſuch ſuperſtitious thing from the Sea of *Rome*, or the authoritie thereof, ſhal be offered or deliuered) doe diſcloſe the name and dwelling (or place of reſort) of ſuch offerer or deliuerer, to any Iuſtice of Peace of that Shire, where he to whom ſuch offer or deliuerie is, ſhall be reſiant: then that Iuſtice muſt (within foureteene dayes next after) declare the ſame to ſome one of the Queenes priuie Counſell, 13. Eliza. cap. 2.

Slanderous newes.

Euery Iuſtice of Peace may (within one Moneth after the ſpeaking or reporting, &c.) commit to Ward, any perſon, being vehemently ſuſpected of ſaying, or reporting of any ſlanderous newes or tales, againſt the Queenes Maieſtie, (vnleſſe he doe put in Suerties to appeare at the next Quarter Seſſions, or Gaole deliuerie) there to remaine, till he ſhal finde Suerties for ſuch his apparance. And may alſo (within one Moneth after ſuch ſpeaking, or reporting) receiue the accuſation thereof, and put the ſame,

same, and the names of the Witnesses in writing, and certifie it at the next Quarter Sessions, or Gaole deliuerie, 23. Eliz. cap. 2.

If any Offendour (contrary to the Statute prouided against the Disturbers of any Preacher) shall bee arrested and brought before a Iustice of the Peace, then he (vpon due accusation thereupon had by the said arrestor, or other person) shal foorth with commit the partie so taken to safe custodie, by his discretion. 1. Mar. Parli. 1. cap. 3. But enquire, if all this Statute bee not repealed by 1. Eliz. cap. 2. in generall words at the latter end thereof.

Egyptians.

Euery Iustice of the Peace may (within one Moneth after the arriuall) seaze all the goods of any outlandish persons (calling themselues Egyptians) that shall come into this Realme: and may also keepe the one moitie thereof to his owne vse, making account to the Queene in the Eschequer for the other moitie. And euery person that can proue by two credible witnesses before him that so seazeth, that any of those goods were craftily, or feloniously taken from him, shal be incontinently restored thereto before the partie that so seased them, vpon paine of the double value therof to be forfeited to such prouer, 22. H. 8. cap. 10. But note, that (after the Moneth) the offence is made Felonie, and then it seemeth, the Queen is to haue the goods wholly. 1. & 2. Phil. & Mar. cap. 4.

If

If any one Iuſtice of the Peace doe ioyne with the Clarke of the Peace, in taking the Inrolment of an Indenture of bargaine and ſale of lands, tenements, or hereditaments, lying in that Countie where he is Iuſtice, it is ſufficient, as it ſeemeth by the wordes of the Statute, 27. H. 8. cap. 16. Inrolment.

Euery Iuſtice of Peace may examine and ſearch (by his diſcretion) ſuch as doe ſell or ſet foorth to be ſolde, any Candles, or other workes of Waxe, at higher price then after the rate of foure pence the pound, ouer the common price of plaine Waxe, betweene Merchant and Merchant: and may alſo puniſh them by forfeiture of the worke ſet foorth to ſale, and of the value of that which is ſold, and by Fine to the King, 11. Hen. 6. cap. 12. as it ſeemeth by the large words of that Statute. Worke of Waxe.

Any one Iuſtice of Peace, is warranted to ſet on the Pillorie in the next market Towne to the place of offence, any perſon that hath broken the Aſſiſe of Fewell, and is conuicted thereof, and is not able to pay the forfaiture, there to bee at eleuen of the clocke vpon the Market day with a Billet (or Fagot) bounde to ſome part of his body: 7. E. 6. cap. 7. but conſider, whether a Iuſtice of Peace, may conuict him of the ſaid forfaiture, or no: for it ſeemeth by the wordes of the Statute, that he is rather a Miniſter, then a Iudge in that caſe. Aſſiſe of Fewell.

If

Repaire to the *Church.*

If any person (aboue sixteene yeeres of age) doe by the space of twelue Moneths, forbeare to repaire to some Church, Chappell, or vsuall place of common Prayer, contrary to the tenor of the Statute (1. Eliz. cap. 2.) then any Iustice of Peace of the Countie where such offendour shall dwell or be, may make Certificat thereof in writing into the Kings Bench, to the end that the offendour may thereupon be bound in 200. li. at the least, with sufficient suerties to the good behauiour, for that his so long obstinacie, besides the other penalties 23. Eliz. cap. 1.

Iesuites, and *Seminaries*, &c.

Any Iustice of Peace within that Countie, in which any Iesuite, Seminarie priest, or other Priest, Deacon, or Religious, or Ecclesiasticall person (mentioned in this Statute) shall arriue or land, may within 3. dayes after, take the submission, oath, and acknowledgement of him, touching his obedience to the Queenes Maiestie, and to her lawes and ordinances prouided in causes of Religion. 27. Eliz. cap. 2.

And euery subiect, hauing vnderstanding that any such Iesuite, Seminarie priest, or other the aboue said, shall be within any the Queenes Dominions, contrary to the meaning of this Statute, ought to discouer the same vnto some Iustice of the Peace (or other higher officer) within 12. dayes after such his knowledge, vnder the paine of a Fine and imprisonment: And that Iustice of Peace, ought (within 28. dayes after

after such discouery made vnto him) to giue information thereof to one of the Queenes priuie Counsell, vnder the paine of 200. marks. 27. Eliz. cap. 2.

Euery Iustice of Peace may examine offences against the Statute made for preseruation of Phesants, and Partriches, and against hawking in Corne (if the same offences be not before lawfully heard, or determined otherwise) and may take bond of the offendour with good suerties for his apparance at the next generall Sessions of the Peace, to answere to the saide offence, and to pay the penaltie, or to receiue the punishment due therefore: and may also after conuiction and punishment of such offendour in taking or killing Phesants or Partriches, take like bond of him and suerties, that (for the space of two yeares) hee shall not offende against the sayd Statute, 23. Eliz. cap. 10. Phesants and Partriches.

It seemeth that one Iustice of the Peace, may (vpon complaint of the partie grieued) examine the Sherife, Vndersherife, and Plaintife, concerning the taking or entring of plaints in their Countie Courtes and bookes against the Statute: And if hee finde thereby any fault or offence committed, that shall stande for a sufficient conuiction and attaindour, without anie further enquirie or examination: So may hee also examine the Bailife of the Hundred for not warning of the Defendant in such a plaint, according Plaints in the Countie Courts.

according to his precept from the Sherife or Vndersherife, and if therby he finde any default or offence, that also shal stand for a sufficient condemnation. And the said Iustice must Certifie those examinations within a quarter of of a yere into the Eschequer. 11. H. 7. cap. 15.

Certificat of selling corne.

The Certificat of one Iustice of Peace (ioyned with the Customer of the place) of the vnlading and selling of Corne, Graine, or Cattel, caried by water from one place to an other of this Realme, vnto the Customer and Controller of the place where the same was imbarked is sufficient and inough vpon the statute of forestalling, 5. Ed. 6. cap. 14: & 13. Eli. cap. 25.

Sanctuary person.

One Iustice of Peace may take out of sanctuary certaine persons abiured thither, & others beyng indited of some kind of offences (mentioned in the statute) done after they become Sanctuary men: and may commit them to the Gaole in the County where the Enditement is found, til they be tryed. 22. H. 8. cap. 14.

Robberie.

No person shall (after that he shal be robbed) bring any action vppon any the Statutes concerning Huy & Cry, except he shal first (within twentie dayes next before such action brought) be examined vpon his corporal oath before some one Iustice of the Peace of the Countie wherin the robbery was committed (inhabiting within or neere the Hundred where the robberie was committed) whether he doe knowe any of them

that

that did the Robberie: and if vpon such examination hee doe confesse that he knoweth anie of them, then also shal hee (before such action bee brought) enter into recognisance before the same Iustice effectually to prosecute such persons (so known) by Enditement, or otherwise, according to the due course of the lawes of this Realme: 27. Eliz. cap. 13.

Malt. If any Bailife or Constable, of any borough, or other Towne, shal finde any Malt, made contrary to the Statutes (2. & 3. E. 6. ca. 16: & 27. Eli. cap. 14.) then, with the aduise of any Iustice of Peace within that Shire, hee shall cause the same to bee solde, to such persons, and at such reasonable prices (vnder the common price of the market) as to his discretion shal seem conuenient.

Watermen. Euery Iustice of the Peace (as it seemeth) within the Shires next adioyning to the riuer of Thamis, within his seuerall iurisdiction hath power (vpon complaint made vnto him) by the ouerseers & rulers of the Watermen & Whirrymen (or two of them) or by the masters of any such Seruants, both to examine, heare, and determine, all offences against the Statute, and to set at large him that shall bee imprisoned by such ouerseers or rulers (if there be iust cause) and also by his discretion to punish those ouerseers and rulers, that shal vniustly punish any person. 2. & 3. Phil. & Mar. cap. 16.

Any

Any Iustice of Peace (within fiue moneths after the sale in market ouert, of any stollen horse, mare, gelding, colt, or fillie) may take the claime, and heare the proofe of the right proprietarie thereof. 31. El. cap. 12.

Examinations of Felons.

Euery Iustice of the Peace, before whome any person (arrested for Manslaughter, or Felonie, or Suspition thereof) shal be brought, ought (before he commit him to prison) to take the examination of such prisoner, and the Information of those that bring him, and to put the same (or so much thereof, as shalbe materiall to proue the Felonie) in writing within two dayes after: and to take bond of all such as doe declare any thing (materiall to proue the offence) to appeare at the next generall Gaole deliuerie, and to giue euidence there against the offendor. 2. & 3. Phi. & Mar. cap. 10.

Here you may see (if I be not deceiued) when the examinatiõ of a Felon began first to be warranted amongst vs. For at the common Lawe, *Nemo tenebatur prodere seipsum*; and then his fault was not to bee wrung out of himselfe, but rather to be discouered by other meanes & men.

And here also is occasion iustly giuen mee, to draw the threede of my speach a good deale further, before I conclude this part concerning the power of anie one Iustice of the Peace. For whereas this law requireth, that he should not onely take the Examination of the fact, and

and bond of the Informers, but alſo that he doe therewithall make choiſe of ſuch things as bee materiall to moue the ſuſpition, or to proue the offence: It ſeemeth neceſſary, both to ſhew him the maner of the Examination, and forme of the Bond, and withall to let him ſee, what thinges be materiall to induce this Suſpition, and what ſorts of Felonies there are wherewith hee hath to deale: to the ende, that hee may both diſcerne them from other facts that carry onely ſome reſemblance of them: and alſo the better vnderſtand, when to commit to priſon the partie accuſed before him, and when hee ſhall not neede to trouble himſelfe ſo farre with him.

Examination vpon oath.

And firſt, becauſe ſome Iuſtices of Peace, do vſe to take this Information (of the bringers) vpon their oathes, and ſome others do receiue it without any oath at al, Let vs ſee what is wont to be ſaid on either ſide, that euery man may the better ſee what way to incline and follow.

They which take this information, or examination (for this Statute doth vſe the words indifferently) without any oath, doe ſay, that if the makers of this Statute had meant that an oath ſhould bee taken, then would they haue expreſſed ſo much: euen as the ſtatutes for Bankrupts (34.H.8.cap.4: & 13.El.cap.7.) the ſtatute of Accountants (5.R.2.cap.13.) the Statute of Labourers (2.H.5.5.ca.4.) and the ſtatute of chooſing Knightes of the Parliament

(8.H.6.cap.7.) haue done before: in all which Statutes, examination by oath is giuen by expresse and plaine words.

But they of the contrary side doe strongly defend their exacting of an oath, by the example of the Iustices of the higher Courts: and do alleage, that whereas the Statute (5.H.4.cap.8.) did ordaine (without any mention of oath) that in an action of Debt vpon the arrerages of account, the Iustices should haue power to examine the Atturneis and others: the Iustices of the Bench do vse in that case to minister an oath to the examinates, as it appeareth, 19.H.6.4: & 35.H.6.5.

The like (say they) is daily done & practised in all the examinations of Summoners, Viewers, Sherifes, Clarkes, and other Officers, that do happen in the higher Courts at *Westminster*. And M. *Brooke* (*tit.* examination 32.) is of the opinion, that euery examination is to bee handled vpon oath. And therefore (belike) the Statute (2.E.6.c.13.) giuing power to the Ordinary to examine a man for his personall Tithe, excepteth an oath, as though otherwise hee might haue required it.

Besides all this, they adde for reason, that if these informers bee examined vnder oath, then although it should happen them to die before the prisoner haue his Triall, yet may their information be giuen in Euidence, as a matter of good credite:

credite: whereas otherwise it would be of litle or no weight at all, and thereby offendors would the more easily escape.

To this latter opinion I my selfe am readie to subscribe, as well because I haue heard some Iustices of Assise deliuer their minds accordingly, as also for that I haue found by experience, that (without such an oath) many informers wil speake coldly against a Felon before the face of the Iustice, hauing first made their bargain with the offendor (or his friendes) before the Iustice did heare of the cause.

The Bond that is spoken of in this Statute, and in some others, seemeth to bee meant of a Recognusance, acknowledged to the Queenes vse, with Condition for the performance of that, which the Statute appointeth. For (as before hath beene said) euen as in the case of Suertie of the Peace and Good Abearing, the Iustice of the Peace taketh vsually a Recognusance, and is warranted so to doe, being made a Iudge of Recorde as touching matters of the Peace, though he hath no full words for it either in any Statute, or in the Commission: So, being authorized by this Statute to deale in this matter, he may bee wel said to haue therein implied (by good Congruence) a power to Record the acknowledging of a summe of money to be forfaited to the Queene, vpon not performing the Condition of the same. The taking of the Bond.

The Partie therefore that informeth against the *Prisoner*, may be thus *bound, in a single* Recognusance.

Kanc. *Memorandum quod 3. die Septemb. Anno regni Dom. nostræ Elizabethæ Dei gratia, &c.* D. E. *de* Brasted, *in comitatu prædicto* Yeoman *personaliter coram me* Thoma Potter, *vno Iusticiariorum &c. ad pacem, &c. assignatorum constitutus, apud* Brasted *prædict. recognouit se debere dictæ Dom. Reg. decem libras bonæ & legalis monetæ Angliæ, de bonis & catallis, terris & tenementis suis fieri & leuari ad opus dictæ Dominæ Reginæ, hæredum & successorum suorum, si defecerit in conditione indorsata.*

Th. P.

And with such a Condition.

THe condition of this Recognusance is such: wheras one *A. B.* late of *G.* Labourer, was this present day brought before the said Iustice by the aboue bound *D. E.* and was by him charged with the felonious taking of xx. Sheepe of him the said *D.* and thereupon was sent by the saide Iustice to the Queenes Maiesties Gaole: It therefore he the saide *D.* shall and will at the next generall Gaole deliuerie (to be holden in the saide Countie) preferre

ferre or cauſe to be framed and preferred, one bill of Inditement, of the ſaid Felonie, againſt the ſaid *A. B.* and ſhall and wil then alſo giue euidence there concerning the ſame, as well to the Iurors that ſhal then enquire of the ſaid Felonie, as alſo to them that ſhall paſſe vpon the Triall of the ſaid *A. D.* That then, &c. Or els &c.

Touching the pointes that may ingender Suſpition, I neede not to ſay much, knowing that I ſpeake to men of diſcretion and wiſedom, to whom *Omne mendacium eſt pellucidum:* And yet, ſeeing that *Initia debent ab arte proficiſci, quanquam cætera facile comparabit exercitatio,* I take it not vnſeruiceable to inſert here, ſuch a Briefe (or minute) thereof as I haue collected out of *Cicero*, and others, whereunto all the reſt which the wit of man may inuent will eaſily bee referred. The cauſes of Suſpition.

Sermo *Iosuæ*, ad *Achan*.

Fili mi, da gloriam Domino Deo Israel, confitere, atq; indica mihi quid feceris, ne abscondas.

Lib. Ios. cap. 7.

The *Examination* of an offence, is a *coniecturall* state

1. Precedent, as his
   - 1. Will to doe the fact, which is gathered by
     - 1. The disposition of the person, by
       - 1. Parents: as if they were wicked, and giuen to the same kinde of Fault.
       - 2. Sexe: for some offences are more commonly found in one Sexe, and some in the other.
       - 3. Education in his
         - Childhood.
         - Youth.
         - Mans state.

         Whether idle, & without honest occupation: or riotously in diet, play, apparell: whether brawling, quarrelous, light fingred, or bloudiehanded, &c.
     - 2. The cause inducing him to vndertake it, which is either
       - 1. Forcible (or impulsiue) as, for reuenge of former displeasure, or vpon sudden offence.
       - 2. Persuasiue: as for hope of gaine, whereof he is needie, or greedie: or for the eschewing of any hurt, whereof he was afraid.
   - 2. Power to commit the act, which is to be considered, by his
     - 1. Wit: subtiltie: courage of minde: meet to enable him.
     - 2. Strength, or swiftnes of body: to warrant him.
     - 3. Countrie: kindred: wealth: friends: office: to couer him.

of a cause: and it is to be weighed by matter, either

- 2. Present, or instant, as the
  - Time: as being very early, or late: which be fit for the doing of euill that will not abide the light.
  - Space sufficient to performe the feate.
  - Place, conuenient & meet for the act: as Wood, Dale, house, or other place of aduantage.

  & his being then there.
  - Occasion, rightly taken, as which being omitted, the fact could not follow.
  - Comparison, as that none but he, or none so commodiously as he, could commit the fact.
  - Hope, to haue it concealed by these aduantages, or to escape with it.
- 3. Subsequent, as
  - Common voice and fame, against him, that he did the offence.
  - Witnesses, that prooue it, either probably, or necessarily.
  - Signes, which discouer him: as by hauing blood, or the goods about him: his flying away: his blushing, or change of countenance: his being in company with other offendors: his offer of composition: the measure of his foot: the bleeding of the dead body, &c.
  - Confession, as his owne doubtfull, or inconstant speaking: his repugnancie with others speech, &c.

The *Mittimus* of the Prisoner, after his examination taken, may stande thus.

Kanc. THOMAS WILLVGHBY, one of the Iustices &c. to the Keeper of her Maiesties Gaole at *Maydstone* in the said Countie, &c. greeting. I send you heerewithall the bodie of *A. B.* late of *C.* Labourer, brought before me this present day, and charged with the Felonious taking of twentie sheep, which also hee hath confessed vpon his examination before mee. And therefore these are (on the behalfe of our said Soueraigne Lady) to commaunde you, that immediately you receiue the saide *A, B.* and him safely keepe in your saide Gaole, vntill that he shalbe thence deliuered by due order of her Maiesties lawes. Heereof faile you not, as you will answere for your contempt at your owne peril: Yeouen at &c.

The diuision, and discourse of *Felonies.*

The Examination of the Prisoner, the bonde of the accusors, and the Notes of suspicion, thus bewayed, It followeth that I enter into the diuision and discourse of the Felonies themselues. For the better vnderstanding whereof, I will heere deliuer (so shortly as I can) such helpes as haue come to my hands, for the knowledge of all maner of Manslaughters,

ſlaughters, and other Felonies that eyther were at the Common lawe, or haue bene ſince declared by whatſoeuer Statutes. But before I ſtep any further herein, I am to pray pardon of the Reader, if I ſhall neyther ſet Manſlaughter before Felonie, as this Statute doth: nor ſhall vſe eyther of both thoſe wordes in ſo narrow a ſignification, and meaning, as commonly other men doe take them. For, howſoeuer the courſe of theſe offences may fall out to him, that ſhall conſider how much the one of them exceedeth the other in grauitie, and degrees of hainous offences: yet to mee, that am deſirous to follow ſome order, and Methode of diſcourſe, the generall muſt alwayes go before the particular: and therefore, refuſing the common vſe of the wordes at this day, I will (for orders ſake) take them in their owne more ancient, and proper ſignifications, vſing Felonie, for the *Genus* (or generall) to all thoſe other fell, and hainous offences, that our lawe (for the moſt part) doth puniſh by the paynes of death: and vſing Manſlaughter, as a ſort of Felonie, that comprehendeth vnder it all maner of felonious Homicide whatſoeuer.

The right vſe of the wordes, *Manſlaughter*, and *Felonie*.

And yet to proue that I doe not herein ſwarue, eyther from the naturall ſignification of the words themſelues, or from the ancient vſe and acceptation of them, I ſay, that firſt thoſe hainous offences, are called Felonies, becauſe they

they be committed *Felleo animo*, with a fell, furious, and mischieuous mind and intent.

And, that before the Statute (13.R.2. cap. 2.) a pardon of all Felonies, was auaileable both for murders, and for some treasons also: as may appeare, Lib. Ass. 22.pl.49: 1. Edw.3. 24: Stanforde 102: & *Commentar.* 502: And, that the Statute of *Marlebridge* (cap.25.) speaketh plainely herein, saying, *Locum habeat murdrum, de interfectis per feloniam tantùm.*

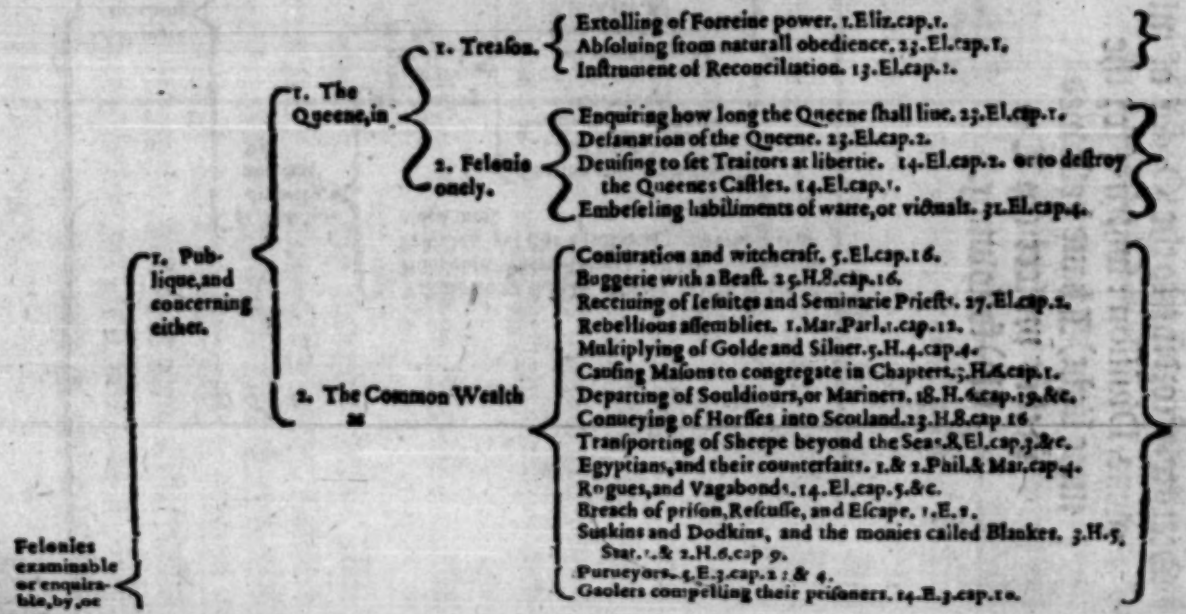
Againe, as touching Manslaughter, that word (as euery man may see) doeth most aptly, and significantly render and expresse vnto vs, the Latine *Homicidium:* which word, both M. Bracton, and M. Stanford do rightly vse, as the generall as well to Murder as to the rest: howsoeuer vnskilfull men will needes restraine it (now adayes) to manslaughter by Chaunce-medley alone.

Neyther doe I doubt, but that this present Statute, when it sayeth, (Manslaughter and other Felonies) doeth thereby make Manslaughter, a sort of Felonie, (for so the worde other doeth emplie) and doeth also therewithall comprehend Murder vnderneath it: seeing it cannot bee thought, but that this Statute requireth examination, as well (if not more) in the case of Murder, as it doeth in the other lesse hatefull Homicides.

This

This excusation being thus made, I will now aduenture (vnder the name of Felonie) to runne thorow all the sortes of Manslaughters and Felonies within the meaning of this Statute, according to the Order of mine owne Diuision: which (for the more light) I haue bestowed in this proiect (or Table) following.

The Diuiſion of thoſe *Felonies*, wherewith *Iuſtices* of the Peace are authorized to deale.



Before the Iustices of the Peace, be either

- 1. Priuate touching either
  - 1. The body onely, and that by
    - 1. Taking away the life thereof, which is called Homicide, whereof though all the sorts be not Felonies, yet (for a full view) the whole is diuided into.
      - 1. Voluntarie, and is either
        - 1. Dispunishable by law,
          - 1. Commanding it for Iustice sake:
          - 2. Allowing it, in all iustifiable killings.

          Which be no Felonies.
        - 2. Punishable, whether it bee vpon
          - 1. Malice prepensed, as
            - Murder.
            - Petit treason.
            - Felon of himselfe.
          - 2. Sudden aduenture, by
            - 1. Chance medley:
            - 2. In his owne defence.

            Which is no Felonie.
      - 2. Innoluntarie, as by mishap, or misadventure: *Which is no Felonie.*
    - 2. Abusing it, without death as by
      - Cutting out of tongues: 5 H.4.cap.5.
      - Buggerie with mankind: 26.H.8.cap.16.
      - Rape: W.2.cap.34.
      - Carnall knowledge of an Infant vnder ten yeres: 18.Eliz.cap.6.
      - Taking away of women. 3 H.7.cap.2.
  - 2. The body and the goods together, as
    - Burglarie, and robbing of a Booth, or Tent.
    - Burning of houses, &c.
    - Robberie from the person.
    - Cutting (or picking) of purses.
  - 3. The goods onely. { Larcenie. } Petite. / Great.

Publique Felonies.

By Publique Felonies, I do here in this Table mean those offences of this kind, that do not so much touch any particular (or priuate) person, as the vniuersall common wealth it selfe: either in the head therof (which is the Queene) or in the bodie thereof, which is framed of al the Subiects within the realme: Betweene the which twaine, there is such a neere Sympathie and mutuall feeling, that whensoeuer the one is offended, the other is also hurt and doeth suffer with it.

Felonies against the Queene.

Of these (which immediatly do concerne the Queene and the estate) some bee called Treasons: and others be named Felonies, after the vsual vnderstanding of that word. And albeit, the Iustices of Peace may deale with all Traitors, as with persons that offend against the peace of the Queene, and of the land: yet not in the very point of the offence, sauing that in some they haue a speciall power to enquire of them, and to receiue enditements onely.

Of this latter sort, is the Treason of extolling forreine power: 1. Eli. cap. 1. the Treason of absoluing (or withdrawing) her Maiesties subiects from their naturall obedience: 23. El. cap. 1: and the Treason of putting in vre any instrument of reconciliation, gotten from the See of Rome. 13. El. cap. 2.

Those Felonies concerning the Queene, arise thus: first, the Felonie of seeking by vnlawfull

full meanes to know how long she shall liue, or who shall raigne after her. 23. Eli. c. 1: then the setting forth in writing of any false and slanderous matter to the defamation of her, 23. Eli. ca. 2: and the deuising to set at libertie any person endited of Treason concerning the Queenes person: or to take or keepe from her, or to destroy any of her own Castles, 14. El. ca. 1. & 2. And the embezelling of any her habilimentes of Warre, or of any victuals prouided for her Souldiours, Mariners, Gunners, or Pyoners. 31. El. cap. 4.

Hitherto of Felonies concerning the head of the common wealth: now follow those that are against the body of the same. Coniuration of wicked spirits and witchcrafts, against the law of God and the Statute, 5. El. c. 16: The sinne of Buggerie committed with a beast, against God, nature, and the Law, 25. H. 8. ca. 16: Receiuing of Iesuites, or Seminarie priestes, contrary to the Statute 27. El. cap. 2: Rebellious assemblies against the Law, 1. Mar. Par. 1. cap. 12: practising in the Arte of Multiplication of Golde or Siluer, condemned by the Acte, 5. Hen. 4. cap. 4: The causing of Masons to congregate themselues in Chapiters, restrayned by a speciall law. 3. H. 6. cap. 1. The departing of Souldiours, Mariners, or Gunners, from their Capitaines, prohibited by the Statutes, 18. H. 6. cap. 19: 2. & 3. E. 6. ca. 2: 4. & 5. Phil.

Felonies against the Common wealth.

Couiuration.

Buggerie.

Iesuites.

Rebellious assemblies.

Multiplication.

Masons.

Souldiors.

Horſes. Phil.& Mar.cap.3 : & 5.Eli.cap.5 : The conueying of Horſes into Scotland,and the ſecond offence of tranſporting ſheepe beyond the ſeas, againſt the Lawes,23.H.8.ca.16: 8.Eli. ca.3: & 1.Eli.cap.8 : The diſguiſing life of the Egyptians, and the idle wandering of conuicted Rogues,forbidden by the acts. 1. & 2. Phil. & Mar.cap.4 : 5.Eli.cap.20 : 14.Eli.cap.5 : & 18.Eli.cap.3 : All theſe (I ſay) bee Publique Felonies, whereby the vniuerſall common wealth,doeth (or may) receiue detriment, and for which hardly any one ſingular perſon can commence his priuate ſute or action.

Sheepe.

Egyptians.

Rogues.

Breach of priſon. And of like condition to theſe, bee thoſe Felonies that doe grow by the breaking of impriſonment for any Felonie : the which alſo are grounded chiefly vpon the Statute. 1.E.2. *De frangentibus priſonam*, and are ſo reſtrayned to Felonie by it, whereas (at the common law) he was generally a Felon that brake the priſon, although the cauſe were no Felonie for which hee was committed thither. For, Impriſonment, is the putting of a perſon from his owne libertie, into the cuſtody of the Law, to anſwere to that which is obiected : and therefore, to breake the priſon, is to flie from the triall of law, and woorthily adiudged a Publique felonie. Out of this one fact, there groweth ſomtimes a treble offence & Felony: namely, one in the priſoner himſelfe, which is moſt properly called the

the Breach of prison: an other in him that helpeth the prisoner to get away, which is commonly termed Rescusse: and a third, in the officer, or partie whatsoeuer, by whose wilfull default he is suffered to goe, and that is named an Escape, 10. E. 4. 17. Rescusse.

The Breach of prison, and Rescusse do many times concurre, and nowe and then an escape doeth appeare without the company of any of them both: Now, (as to this purpose) it is called a Breach of prison, whether it be an escape, out of the Gaole, or out of the stockes, or out of the possessiō of any person that hath the keeping of the party arrested for Felonie, although he be not therof endited before. *Corone* Fitz. 158. Collection Diar, fol. 99: & 212: and so is it, if a man take the sanctuarie of the Church for a Felonie: and do then flie from it: for he is there in the custodie of the towne. *Corone* Fitz. 290. But if the gaoler, or any other that hath a Felon vnder arrest, doe willingly suffer him to goe at large, then resteth the felonie in them only, and not in the prisoner: who can not be said to breake the prison, out of which her is freely dismissed, Stanford, vpon the case, *Corone* Fitz. 149. Escape.

On the other side, if a straunger doe eyther breake the prison, and let out one that is there for Felony, or do rescusse such an one as is vnder arrest for Felonie, then is it Felonie as well in the straunger, as in the prisoner himselfe. *Corone.*

Fitzh.48:134:& 158: Howbeit, if that ſtranger ſhall but offer diſturbance onely before the arreſt, ſo that the arreſt is hindered thereby, then will it prooue no Felonie in him: becauſe the other was no more a priſoner, then if he were attached onely, & were not yet brought vnder hand, *Corone*, Fitz. 333: & Stanf. 31. & lib. Aſſ. 27. pla. 9: againſt the opinion of M. Fitz. in his Iuſtice of Peace.

And for the ſame reaſon, if a man receiue a Felon, knowing the Felonie, and then doe willingly ſuffer him to eſcape, this ſufferance to eſcape is no felonie of it ſelfe, howſoeuer the receiuing of him may make him an acceſſary, 9. H.4.1:& Stanf.33: Neither is it Felonie for a man willingly to ſuffer one to eſcape that is arreſted for an acte, which was not then Felonie, but by matter conſequent fell out ſo to be: As, if Iohn ſtrike Richard, for which the Conſtable arreſteth him, and afterward letteth him go, and then Richard dieth of the blow within the yeere. *Commentar.* 401:11. Hen.4.11: much leſſe, to ſuffer one to eſcape, that is arreſted for the killing of an other, *Se defendendo*, or by misfortune, or for petite Larcenie, or that hath his iudgement to be deliuered, paying his fees: becauſe none of theſe doe amount to Felonie.

But now, to purſue thoſe Publique felonies that doe yet remayne. Thoſe Felonies of Gallyhalfpence, Suſkins, and Dodkins, 3. H.5.

Money.

H.5.Stat.1: and of Blankemonies, 2. Hen.6. cap.9: whereof there is little (or none) vse at this day amongst vs, may stand in this Register of publique Felonies. And albeit the embezelling of any Record, doth immediatly touch some one particular mans interest: yet, knowing that when it is once a Record, euery other man hath accesse vnto it, and may vse the helpe of it, I would reckon that offence (adiudged felonie by the Statute 8.H.6.cap.12.) amongst the rest of publique Felonies, if the Iustice of Peace had to do with it. Records.

There may be more doubt of the Felonies by purueyors, abusing their office against the Statutes, 4.E.3.cap.3: 25.E.3.cap.15: 30. E.3.cap.4: 26.E.3.cap.5.& 6: & 7.R.2.cap. 8: and likewise of those Gaolers, that (by hard and cruell custodie) compell their prisoners to become approuers, against the act. 14.E.3.ca. 10: because in all these, some particular person is chiefly pinched: But yet, forasmuch as they do it by colour of their offices (which are Publique) I can be contented to range them amongst publique Felons also. Purueiors. Gaolers.

From these common, and farre spreading offences, I must fall to those that I called Priuate, in respect that particular men are immediately (and almost onely) wronged by them, Sauing that the lawe doeth also take some auengement of the crime, least impunitie in the Priuate Felonies, and their diuision.

offendors, shoulde embolden others to commit the like.

These (as appeareth in the Table before) do eyther run to the body alone, or to the body and goods together, or els to the goods onely.

Againe, seeing that the body is eyther touched in the point of life, or by other violent or fleshly abuse that bringeth not death, I am first to entreat of Homicide, which I called Manslaughter, & therin to note some few things that be common thereto, and afterwards to drawe it into the sundrie sortes, or kinds also. Homicide.

In al these sortes of voluntarie Manslaughter, being exempted from the fault of Felonie (as that is, which we say to be done *Se defendendo*) there is no person to be punished, to whome the law hath denied a wil, or mind to do the harme: as a mad man: he that is borne both deafe, and dumbe: nor an infant vnder the age of 12. yeres, vnlesse it may by some euident token appeare, that he had vnderstanding of good and euill: for then, in him *Malicia supplebit ætatem:* and to these (by the opinion of M. Bracton) you may adde the Lunatique during that disease for a fourth, *quem tuetur* (as he saieth) *consilij inopia*, 3. H. 7. 1: 21. H. 7. 31: *Corone* Fitzh. 193: & *lib.* Ass. 26. pl. 27.

Moreouer, to hurt a woman great with child, whereby the child either dieth within her body, or shortly after that shee is deliuered of it: or to strike

ſtrike any perſon, ſo as he dieth not thereof, till the yere and day be fully paſt: will not wrap a man within the daunger of theſe Felonious Manſlaughters: *lib.* Aſſ. 3. Pl. 2: 1. E. 3. 24: 3. H. 7. cap. 1: & *Corone* Fitz. 303. For in the former caſe, the child is not reckoned to be *In rerum natura*, vntill it be borne, though M. Bracton (Fol. 121.) taketh it to be Homicide if the blow be giuen *Poſtquam puerperium animatum fuerit*: And in the latter caſe, it cannot reaſonably be alleaged, that the man died of that blow, which he receiued a whole yeere before.

Laſtly, if any perſon ſhall be brought before a Iuſtice of the Peace, and charged with any of theſe Homicides (except that which is done in the orderly execution of a iudgement) it ſhall be his part (as I thinke) to commit him to priſon, or at the leaſt (if the cauſe will ſo ſuffer) to ioyne with ſome other Iuſtice in the Bailement of him: to the end, that the partie may bee diſcharged by arraignement and Triall: without the which (or other finding of the trueth before the Coroner, or otherwiſe) I ſee not how the Iuſtice of Peace may ſafely diſmiſſe him. And for this purpoſe, I referre you to the Statute of Glouceſter, cap. 9. and *Corone* Fitz. 288.

But nowe to the ſortes of Homicide: Not euery Manſlaughter (ſayeth M. Bracton) deſerueth puniſhment: For it may be done for Iuſtice ſake, and then it is no fault at all, ſo it *Homicide*, commanded by law.

be done syncerely, and without delight in shedding of blood.

And therefore, neither the Iudge that by order of iustice condemneth the guiltie man to death: nor the officer that orderly executeth that iudgement according to his warrant: is guiltie of any offence, for which vpon examination he ought to be committed to prison: Seeing they haue done no more then law commanded.

Homicide allowed by law.

Next vnto this, is the case of those whome lawe alloweth to slay a man, and holdeth them vnpunishable for it: whether it bee vpon a certaine necessity for the aduancement of Iustice, or for the defence of his house, or goods, or for the more terror against offendors. And therefore, the Shirife, Bailife, or any other, that hath a Warrant to arrest a man endited of Felonie, may iustifie the killing of him, if otherwise they cannot take him. 22. *lib.* Ass. pl. 55. and so may any other man, that followeth Felons vpon the Huy and Cry raised, if they wil not yeeld themselues, but stand at defence, or flie away: by the opinion of Thorpe, *Tit. Corone.* Fitz. 261: and so is it also, if a man that is arrested for Felony, doe (as he is in carying to the Gaole) offer resistance, and flie: for then those that haue the conduction of him, may without blame kill, if they cannot otherwise recouer him, *Corone.* Fitzher. 288. & 328.

And if the Iustices of Peace come to arrest Riot-

Riotters, and they resist, whereby one of the Riotters is slaine by any of the Iustices or their seruants, or by any other comming in their aid, that is iustifiable, and allowed by law: because in this, and the former cases, the killing proceedeth vpon a necessitie, for the execution of Iustice, which otherwise should be left vndone. Of like account is it, when a Gaoler doeth slay any of his vnruly prisoners that shall assault him. *lib.* Ass. 22. pl. 55. But whether this rule will holde, when the arrest is onely for debt, or such like, it is good to be aduised.

If the Iustices of the Peace, or any other (lawfully authorized) doe assemble any number of men for the suppressing of any persons vnlawfully assembled contrary to the Statute (1. Mar. Parl. 1. cap. 12.) and be driuen to set vpon them, and thereby any of the offendors be slaine, this slaughter is warranted, both in the Iustices themselues, and for euery other of their company, by the same Statute.

And if any Forrester, Parker, or Warreinor, or such as be in their company for their aid (after Huy and Cry made vpon offendors within their charge to peelde themselues, which nevertheles will make resistance, or flie) do without former malice kil any of them, they are neither to be imprisoned nor to forfait any thing for it. *Stat. de malefactoribus in parcis.* 21. Ed. 1. So if any doe attempt, to robbe, or murder any

person, in his dwelling house, or in (or nigh) any common high-way, cart-way, horse-way, or foote-way, or feloniously to breake into his dwelling house in the night time: and in this attempt the partie, or his seruants then with him, doe kill any of the misdoers, he, or they shal forfait nothing thereby, 24. H. 8. cap. 5. and so (in effect) was the common law before that Statute, as may appeare. 26. *lib.* Ass. pl. 32. & *Corone*, Fitz. 330: 305: & 261: and so also was the Romaine law of the twelue Tables: *Nocturnus fur quoquo modo, diurnus autem si se telo defenderit, impune occiditor.* For, of necessitie men must either defend themselues, or bee oppressed by these and such other wrongfull inuasions.

And therefore, if there bee malice betweene A. and B. so as they haue fought together: and afterward they meet suddenly, in the high way, or in the streete of a Towne, or Citie, and A. draweth his weapon, and chalengeth B. to fight, B. saith that he wil not haue to do with him, and goeth to the wall from him, and thereof taketh witnesse of the standers by: and yet notwithstanding A. foloweth, and striketh at B. and then B. striketh againe, and killeth him: In this case, it was adiudged (15. Eliz. Reg.) that B. shall go quite by this Statute, without any forfaiture. Report Crompton.

Murder. We come now to Manslaughter vpon premeditate

meditate malice, whether it bee executed vpon others, or vpon the partie ſelfe. That which is generally committed vpon any other, betweene whom and the ſlear, there is no ſpecial ligeance (or ſoueraigntie) is now called Murder, and the other petite Treaſon.

In the old time, euery killing of one man by another, was (of the effect) called Murder, becauſe death enſued of it. For (as *Poſtellus* noteth) of the Hebrew worde Moth came the Latine *Mors*, and thereof our elders (the Saxons) called it Morð, and Morðor, as we now ſounde it.

Afterward (about the time of M. Bracton) murder was reſtrained to a ſecret killing onely: and therefore he, in the definition of Murder ſaith, that it is *occulta occiſio, &c.*; with whome Britton agreeth alſo. But, ſince the Statute (14. E. 3. cap. 4. by which the preſentment of Engleſherie was taken away) Murder is taken in a middle degree, neither ſo largely as it firſt was, nor ſo narowly as it afterward became to be. For, Murder is now conſtrued to be, Where one man of malice prepenſed killeth an other feloniouſly, that liueth within the Realme, vnder the protection of the Queene, whether it be openly, or priuily, and whether the partie ſlaine be Engliſh, or alien. Wherein it is carefully to be obſerued, that the wordes (of malice prepenſed) do make the true difference betweene this,

this, and the other voluntarie Manslaughters: so that to make the offence Murder, it is of necessitie, that there be a precedent malice, and the same either apparant, and bewrayed by the partie himselfe, or else implied and supplyed by the understanding of the law.

And therefore, if two persons doe mutually beare malice the one against the other, and (meeting by chance) they agree to goe into the fielde to fight together, and thereby the one of them is slaine, this is manifestly Murder in the other: Report Dalyson.

So, if two (of malice forethought) lie in awaite the one to kill the other, and thereby the one of them doth kill the other, this is Murder in the killer, without respecting which of them gaue the first blow, by the opinion of sir Rob. Catlin late chiefe Iustice as Cromp. reporteth.

And if a man of premeditate malice, striketh at another, and after in the fight flieth to a wall (beyond which he cannot goe) the other pursueth him to the wall, and is there slaine by him that began the affray: this seemeth to be Murder, notwithstanding his flying to the wall, by the opinion of Catlin chiefe Justice, & others: for he slew the man in the same malice, wherein he did assault him. Report Crompton.

And if Iohn and William doe fight together (by agreement) vpon their former malice, and Iohn woundeth William: and afterward they meete

meete againe vpon the ſudden, and (falling to fight) William ſlayeth Iohn, that is Murder in him, by the opinion of Catlin chiefe Iuſtice, as Crompton reporteth.

Now, as all this is meant, where the former malice is apparant: So, many times the lawe doth (by the ſequele) iudge of that malice which lurked before within the partie, and doth accordingly make imputation of it. And therefore, if one do (ſuddenly, and without any outwarde ſhew of preſent quarell or offence) draw his weapon, and therewith kill an other that ſtandeth by him: the lawe iudgeth it to haue proceeded of former malice medicated within his own mind, howſoeuer it bee kept ſecret from the ſight of other men. Dalyſon.

The ancient law that meaſured the fault, not by the euent, but by the intent, will, and purpoſe of the offendor, tooke it for Felonie (ſaieth M. Stanford, fol. 16. out of the book 3, E. 3.) in the owner of a beaſt that killed a man, if ſo bee that the owner did knowe it to bee accuſtomed to do harme, and did not tie it vp, or otherwiſe reſtraine it: but that caſe (3. E. 3. which you may ſee *Corone* Fitz. 311.) goeth not ſo farre (as I thinke) but onely ſaith, that if the owner were aliue, he ſhould be arraigned of the death, and amerced towards the King. Againe, Britton (fol. 14.) hath the caſe, that if one which is not a Phiſition or Surgeon, will take vpon him

to

to cure a ſicke or wounded man, which dyeth vnder his hand, it is Felonie: and Thorp (43.E. 3.33.) ſaith that hee knew one to be endited accordingly: But the Statute (34.H.8.cap.8.) leaueth ſo great a libertie of ſuch practiſe to vnſkilful perſons, that it wil be hard now to make any felonie in ſuch a caſe. Howbeit, if any of theſe two latter offences ſhoulde bee drawen to Felony, then I ſee not but that the ſame muſt be accounted Murder, in reſpect either of the bolde preſumption, or of the will to doe harme, which doeth amount to malice.

And it hath bene adiudged Murder, when a man hath drawen his weapon, and killed either a knowen officer, or one that had and ſhewed ſufficient warrant to arreſt him for debt only. So, if a harlot will take the child whereof ſhe is newly deliuered, and couer it with leaues, and let it lie abroade, whereby vermine deſtroyeth it: and ſo likewiſe, if the ſonne will take his ſicke father againſt his wil out of his houſe, and carry him in the cold aire to another place, whereof he dieth. Fitz. enditement 3: or if the officer will behead him that is adiudged to be hanged: or if a priuate man will kill him without any warrant: 35.H.6.58: & 27. *lib.* Aſſ. pl. 41: or if a Gaoler kill his priſoner by ouer hard keping. Britton fol. 18.

Againe, it is taken for a rule (by M. Brooke 4. & 5. Phil. & Mar.) that whereſoeuer a man goeth

goeth about an vnlawful act, as to beate a man, or to disseise him of his lands, &c. and do (in that attempt) kill him, it is Murder: because the law presupposeth that hee carieth that malicious mind with him, that he will atchieue his purpose though it bee with the death of him against whō it is directed. And therefore, if a theefe doe kil a man whom he neuer saw before, and whom hee intended to rob onely, it is Murder in the iudgement of lawe, which supplieth a former malicious disposition in him rather to kill the man, then not to haue his money from him, *Comment.* 474.

And if a man command his seruaunt to beate an other man, which doeth it in his presence, and the partie dieth thereof, it is Murder in them both, *ibidem* 475.

It appeareth in M. Dalisons Report (4. & 5. Phil. & Mar.) that a Precedent was shewed to the Iustices, that whereas a man entered into an other mans Orchard of his owne head, and there tooke peares from a tree, and in the doing killed the owner that rebuked him, it was adiudged Murder and hee was hanged for it. And of like sort is it, if Riotters or such as be otherwise vnlawfully assembled, doe kil any of those that come in aide of the Sherife or Iustices of the Peace, for the repressing of them.

Furthermore, the law (not thus contented) doeth many times extende this murdering ma-

lice,

lice, towardes other persons then the offendour may seeme to bende it: yea, and to punish it in some, that haue a shew to be very farre from it. And therefore, if a man (of his former malice against one) doe shoot at him, and thereby killeth an other, with whome hee was not offended, yet is he a Murderer, for the minde that hee bare to murder him against whom he drew his arrowe. *Comment.* 474. So, if two fight vpon premeditate malice, and the one of them slayeth the seruant of the other that fighteth in defence of his master, he is guilty of Murder: and yet he had no former malice against the seruant. *Comm.* 101.

And if two fight vpon malice fore-thought, and in their fight a stranger is killed that laboureth to depart them, it is Murder in him that killeth him, if it may be discerned, and if not, then in them both. *Corone*, Fitzh. 262. & Dalyson, & *Collect.* Diar. 228.

But to go farther, the Husband meaning to be rid of his wife, offreth her a poysoned apple to eate, and shee (not seeing the danger) giueth part thereof to her litle daughter that standeth by in the presence of the husband, who (to auoid the suspition) suffereth her to eate thereof, and she dieth: this was adiudged Murder in the husband, for his wicked intēt against his wife: & yet the case was, that he loued his daughter dearly. *Comment.* 474. & Stat. 1. E. 6. cap. 12. by which all wilfull killing by poysoning, is adiudged

Murder

Murder of malice prepensed.

So, if a man lie in waite by the way to kil A. and (mistaking the man) he killeth B. as he commeth the same way, this is Murder, *ibidem.*

Againe, all such as be present, (and ayding, abetting, or comforting him that committeth a Murder) be principall Murderers in the eye of the lawe, as well as he is by doing the deede, though they strike neuer a stroke therin: for the law draweth the stroke of the murderer to bee the stroke of them all that be present, and doe assist him: 4. H. 7. 18: & *Commen.* 100.

And therefore, if Hunters doe enter into a parke, and do agree to kill any man that shal resist them, and one of them (being out of the sight of his fellowes) doth run vpon the keeper, and killeth him: this will make all the rest of the Hunters to be principall Murderers, as wel as him that gaue the deadly blow. Dalyson.

And (to giue one example of both these last Rules) the Case was (4. & 5. Phil. & Mar.) that George (hauing cõceiued a displeasure against Richard) assembled sundry persons, and came in riotous sort to the house of Richard, of purpose to fight with him, but not with the minde to kill any man: and vsing there some quarellous speeches together, a kinswoman to them both trauelled indifferently to appease them, & was suddenly stricken on the head with a stone that was throwen ouer a wall by one of the seruants

seruants of George, whereof she afterward dyed. And (by the opinion of all the Iustices, and others) it was declared, vpon long aduise, that if she came on the part of Richard, and not as a stranger to the matter, then this killing of her was Murder in George and in all his complices: but if she came as a straunger, and indifferent to both the parties, yet by the better opinion it was thought to be Murder in George and all his company, because they came with a malice against the person of Richard, and in the execution of that malice this death ensued. Report Dalison with which sir Iames Diar in his collections doth not altogether agree.

Petite treason. Now it followeth, to speake of wilfull Manslaughter committed by Treason which is a sort of Murder: and therefore, howsoeuer it exceede Murder in the grauitie of the crime (as I saide) yet in Methode, and true order of handling, it must come after it, as being the lesse general. It is of two sortes, whereof the first is called high, in respect of the Prince which is the highest person: and thereof I shall not neede to intreate further then I haue spoken already. The other is termed petite, in regarde of the inferiorities of the persons against whom it is committed: and they be either Ecclesiastical or Laie: as it is declared by the Statute (27. E. 3. ca. 2.) which is but an affirmation of the common law.

So that, if a Clarke doe maliciously kill his Prelate

Prelate (or ſuperior) to whom he oweth obedience: or a wife, her husband: or a ſeruant the maſter, or maiſtreſſe, (who haue a ciuile ſouereignty ouer them:) this will be Petite Treaſon, *lib.* Aſſ. 12. pl. 30: & 22. plac. 49: *Corone* Fitz. 383: 19. H. 6. 47: & 25. E. 3. ca. 2. And albeit there be a naturall obedience, due from the child to the parent, whereby it might ſeeme, that the willfull and malicious Murder of the parent by the hand of the child ſhould as well be ſorted in the range of petite Treaſon as the reſt: yet by the opinion of Bromley chiefe Iuſtice, and Portman (1. Mar. as Dalyſon reporteth) it is not petite Treaſon for the ſonne to kill his Father or Mother, vnleſſe he take meat, drinke, and apparell (or wages) of them, and doe their buſineſſe for it, as a ſeruant. I know, that the imprinted booke at large 21. E. 3. fol. 17. hath (*Mere*) ſhortly, and corruptly writte, for *Meiſtre* which did, and may deceiue ſome Reader: but Fitzh. *Corone*. 447. and Statham alſo (which doe abridge that caſe) haue it plainly *Meiſtre*, to take all doubt away from it.

But to goe forwarde on our way, there is none other difference betweene the offence of Murder and petite Treaſon, but this onely, that Murder is more generall, and may bee executed againſt euery ſtranger, whereas petite Treaſon is reſtrayned to theſe narrow bounds of priuitie, that I haue ſet downe before you:

And therefore, if the wife and a straunger doe ioyne in killing, or poysoning the husband: or a seruaunt and a stranger in destroying the master or maistresse of that seruant: this is petite Treason in the wife and seruant, and Murder in the strangers. And (by the way) that wife may for the poysoning eyther be touched with petite Treason at the common lawe, or with Murder by the newe Statute, 1. E. 6. cap. 12. Dalyson. But if the wife and seruant doe conspire to kill the husband, appointing the time and place therefore, and the seruant, doeth execute the same accordingly in the absence of the wife: then is it petite Treason in them both: whereas if it had beene done by a stranger, shee should onely haue bene accessarie to it, as to a Murder. Collection Diar. fol. 332. pl. 25: & 254. pl. 103.

Now therefore (to auoyd all needlesse multiplication of particular cases) I may leaue you this one generall, and short Rule for the better vnderstanding of all the rest of petite Treasons: namely, that whatsoeuer act will proue Murder betweene strangers, the same will also make petite Treason betweene these forenamed priuies. Onely I will adde this one case, which hath an extraordinarie relation in it: the seruant (being departed out of seruice) killed his late master for the malice which he had premeditated against him during the time that he was

was his ſeruant: and this was taken to be petite Treaſon: *lib.* Aſſ. 33. pl. 7.

For an end of malicious killing, we are come to him that killeth himſelfe: and is therefore called *Felo de ſe*: for the law deemeth that hee doeth it *Felonicè*, and with a meditate hatred againſt his owne life. And although this fault is neuer imputed (as I ſayde) to him that is not *compos mentis*, or (as we ſpeake) *non ſanæ memoriæ, de die in diem*: yet if he haue *lucida interualla*, his death ſhall yeelde that forfaiture which belongeth to the fault: as M. Stanford gathereth by the booke, *Corone*. Fitz. 324. And ſo it was accounted of him, that in a furious heate ſtriketh another to the ground, and withal draweth his dagger to kill him, but whileſt the other that lyeth on the ground draweth his weapon, and holdeth it before him, he in haſt to kill the other falleth vpon the weapon and is ſlaine himſelfe. For the booke (44. E. 3. 44.) adiudgeth that he is *Felo de ſe*, and that the other ſhall forfaite nothing for it: But M. Stanford (fol. 16.) taketh it for Chance medley, and that he (in a maner) killed himſelfe. *Felo de ſe.*

There doe yet remaine two ſortes of voluntarie homicide (but without preceding malice) the one commonly called Manſlaughter, but more properly homicide by Chaunce medley: the other *Se defendendo*, that is, in his own defence: The former is fitly named Chaunce *Homicide*, by Chance medley.

medley, for that in it men are medled (or committed) together by meere chance, and vpon some vnlooked for occasion, without any former malice or euill mind in one, to offer hurt to the person of the other. And in this offence, our law doeth remit somewhat of her seueritie against the former faults: so that bearing (as it were) with the infirmitie of mans nature, it seemeth no lesse to allow of manhood here, then to haue abhorred malice before. But I will exemplifie it by particular cases.

If the master and his seruaunt fight against one, towardes whome the master hath malice, and telleth not his seruant thereof, and in that fight the seruaunt killeth the other man: how soeuer this be Murder in the master, yet is it but homicide by Chance medley in the seruant, *Commentar.* 101. for hee could not come to execute the malice of his master whereto hee was not made priuy. So, if Richard and Robert fight together vpon premeditate malice, and a stranger (hauing no malice) doth suddenly take the part of Richard, whereby Robert is slayne: this is but Chaunce medley in the straunger. *Commentar.* 100.

And if two play at the bucklers together, without former malice, and the one slayeth the other, this is reputed to bee done by Chaunce medley, if it be not before the Queene, and by her commandement, or proclamation: and if it be,

be, then it is not punishable at all, as Iustice Fineux did hold. 11. H. 7. 23. But M. Brooke *Corone* 228. noteth, that the Iustices in the time of H. the 8. were of an other opinion.

In some case, the killing of a man may ensue vpon the maintenance of an iniurious acte, and it shall bee deemed but Manslaughter by Chaunce medley, as thus: Robert entreth forcibly with his company into the house of Richard, and putteth out the wife and family of Richard: the next night after, Richard commeth with a great company weaponed to the house, to recouer his possession, and setteth an outhouse thereof on fire: which when one espied that was in the principall house, hee shot off a gun, and therewith killed one of them that came with Richard: Now, vpon this fact, Robert and his complices were arraigned of homicide by Chance medley. 23. Eliz. Report Crompton: for it cannot be taken to be a iustifiable killing, since the other side came not to rob, or kill, but to recouer the possession of that which was in a forcible Riot taken from them: Neyther ought it to be construed Murder, when a man in the night season shooteth at aduenture to kill him that setteth a part of his house on fire, not knowing whether it be any man against whome hee hath former malice: and least of al, can it be Misaduenture, seeing hee that shot, had a purpose to hurt, or kill withall.

Wore plainely is it Manſlaughter by Chaunce medley, where Henry was in poſſeſſion of a houſe diuers yeeres together, and William (pretending title to that houſe) commeth thither with a ſtranger, and hee ſhooteth an arrowe at Henry that was in the houſe, whereupon Henry diſchargeth a croſſe bow, and with an arrow thereof killeth the ſtraunger: and ſo it was taken. 5. Elizab. Report Crompton. For this was a ſudden quarell for the Title to the houſe, without any vnlawfull act preceding on eyther ſide.

If two fight vpon ſudden offence, & without any precedent malice. and in the fight the one runneth away, and the other goeth into the next houſe, and there catcheth a ſtaffe and purſueth and killeth him which fled: this was taken to be but manſlaughter by Chance medley, for the continuance of the fury, which was (at the firſt) without malice. and could not in ſo ſhort time be appeaſed. 18. Eli. Report Crompton.

So, if the one of them had broken his ſword in that fight, and had run home to his houſe (not being far diſtant) and fetched another weapon, and had therewith killed the other: And ſo, if two haue borne malice mutually, and bee reconciled together, and then afterward they meete, and the one chargeth the other with wordes of miſreport, whereupon by agreement they goe immediatly together out of the houſe into the field

to

to fight, and there the one slayeth the other: for these and such like haue bene taken to bee manslaughters only: vnlesse the respite and distance of time haue bene such, that (by reasonable coniecture) the heate of the first anger might in that meane while haue bene allwaged.

Richard and Robert fight together vpon former malice, and Richard woundeth Robert, and so they depart for that time: afterwarde they meete vpon the sudden and fight agayne, and Richard killeth Robert: this (by the opinion of Catlin chiefe Iustice) seemeth to be by Chance medley: for that the former malice of Richard shall be thought to be appeased, by the hurt that hee first did to Robert: and on the other side, if Robert had then killed Richard, it should be taken to be Murder, by the malice that Robert shall be thought to beare, for the hurt that he receiued. Report Crompt. Hitherto of the principall parties to the fight, now of others that happen to haue to do therein.

If two fight by occasion of the euill wordes of a woman that is present, and the one killeth the other without any other malice: this is manslaughter by Chaunce medley in the woman, as well as in the slayer himselfe. *Corone.* Fitz. 331.

And if two fight vpon the sudden without former displeasure, and a straunger commeth to part them, and is slayne by the one of them:

this is manslaughter by Chance medley, *Corone*, Fitzh. 180. So if two fight vpon the sudden without former malice, and the one of them breaketh his staffe: and a stander by which is not of their company lendeth his staffe vnto him, with which he killeth the other: this seemeth to be manslaughter by Chance medley in the stander by. Crompton.

Homicide, in his owne defence.

The last member of voluntarie Homicide, is where one man killeth another in his owne defence: and this is neither felonie, nor yet any iustifiable killing: but euen as the lawe of nature (as *Cicero* in his defence of Milo said) doth allowe vnto man, *Omnem honestam rationem expediendæ salutis*: So the lawes of men doe sometime reach vnto him, *Gladium ad occidendum hominem*. And therefore, our law also is a Sanctuary for the life and lands of him that killeth another in the necessitie of his own defence, if he cannot otherwise escape with his life from him. But he must know, that it is not all one to haue to doe with a theefe, or murtherer, and with a loyall Subiect. For albeit he may boldly defend himselfe, his goods, or his house against a murtherer or theefe, on euen hand (as it were) & without any shrinking from him: yet, if he bee assailed by an other maner of man, hee must flie so far as he may, and til he be letted by some wall, hedge, ditch, preasse of people, or other impediment: that his necessitie of defence

may

may be esteemed altogether great and inevitable: and yet shal he bee committed till the time of his triall, and shal then loose his goodes, and seeke his pardon, for taking away the life of his fellow subiect. Stat. Glouc. cap. 9.

M. Stanford (fol. 15.) describeth this manner of Manslaughter by this example. A. striketh at B. with his weapon, and B. goeth from him so farre as he may for the safetie of his life, so that he commeth to a strait beyond the which he cannot flie: A. still pursueth the assault, and then B. striketh also, and killeth him, or holdeth out his weapon whereupon A. runneth, and is slaine, this (saieth hee) is taken to bee done *Se defendendo*: whereas if B. had not so fled, but had striken againe when A. stroke at him, and had therby killed A. it had bene Felonie in him. But yet if A. had striken at B. as before, and B. had striken at him diuers blowes also (without giuing him any deadly wound) and then B. had fled to the strait, and being pursued still by A. had then killed A. this would be deemed to be done by B. in his owne defence: because (saieth M. Stanford) it is sufficient for B. that he fled to the straite before hee had giuen to A. any deadly wound: and this hee gathereth by the Bookes, *Lib.* Ass. 43. pl. 31: & *Carone* Fitzh. 284. 286. 287. 295. & 297: And it is not material in the first case, though there were former malice betweene A. and B. vnlesse B. doe lie in await for A: or

A: or doe agree with him vppon the place for fight, or doe strike the first stroke at A, in all which cases, the flying of B. afterwarde to the straite, wil not auaile, or helpe him at all.

So, if a man do assault one in his house vpon a sudden quarel, and is thereby killed, this is taken to bee done by the other in his owne defence, *Corone*, Fitz. 305. for, *ita fugias, ne prater casam*, as the Comicque said: and our law calleth a mans house, his castle, meaning that hee may defend himselfe therein.

Homicide, by misaduenture.

Hauing thus perused these kinds of Homicide that are willingly (though not all alike wilfully) committed, and done, wee must come to that which happeneth clean besides the wil, and purpose of him that doth it. And therfore according to the law of God (which iudgeth him not worthie of death that ignorantly killeth another, but protecteth him in the Cities of refuge) our law saueth vnto such an one his life and lands, but yet taketh his goods, and giueth him a pardon of course without any speciall suite to the prince for it. So, that if a labourer doe worke with an axe, and (in the fetching of his stroke) the head of the axe happen to flie off from the helue, and to kill one that standeth by: or if a man doe throw a stone at a birde, or shoote an arrow at a foule, or at a marke (without euil intent) and an other man is slaine vnwares thereby: or if (in the felling of a tree) hee giueth loude warning

when

when the tree is ready to fall, and yet it falleth vpon an other man that standeth, or passeth by: Or if a Tiler throweth downe the Tiles from a house that he is to amend, and giueth warning thereof, and an other man commeth vnder, and is slaine with a stroke of a tile: Or if a Schole-master doe moderately correct his scholer, and he dieth thereof. In all these, and the like cases, it is to be adiudged Manslaughter by misfortune: Stat. Marlbridge. cap. 25: 2. H. 4. 18: 11. H. 23: *Corone* Fitzh. 302: 354: & 398: & *Comment. 19.*

But here the distinction (taken by M. Bracton, and allowed by M. Stanford) in this case of Misaduenture, is worthie the recitall. *Distinguendum est* (saith he) *vtrum quis dederit operam rei licitæ, an illicitæ: vt, si lapidem proiciebat quis versus locum per quem homines consueuerunt transire: vel dum insequitur equum, vel bouem, & aliquis alius ab equo vel boue percussus fuerit: hic imputabitur ei. At si Magister causa disciplinæ discipulum verberauit: vel si quis dum fœnum de curru deponebat, vel dum arborem incidebat & adhibuit quam potuit diligentiam, scilicet respiciendo & proclamando, neq; id nimis tarde aut demisse, sed tempore congruo & ita clamose, vt alter fugere aut sibi præcauere potuisset, non imputabitur ei.*

Felonies, touching the bodie, but without the death thereof.

Thus haue the Felonies appeared, that doe kill the body: it is now time to speake of those that

that abuse the body without destruction of it. And here, first offreth it selfe, that Felonie which (of set purpose, and prepensed malice) cutteth out the tongues, or putteth out the eyes of any of the Queenes subiectes: 5.H.4.cap.5: Next,

Buggerie. the sinne of Buggerie that is committed with man, against the order of mankinde, 26.H.8. cap.16: after that, the taking of any maide, wi-

Taking away of women. dow, or wife, vnlawfully against her wil, that hath lands or tenements, goods or chattels, or is heire apparant to her auncestor (except it be by such as shal claime her for their Ward or bondwoman) declared to be Felonie (by the Statute 3.H.7.ca.2.) if he that tooke her, do afterwards marrie, or defloure her: for so was that Statute construed, 3.& 4.Phil.& Mar. Report Dalyson: and by the same Statute, they bee principal Felons that doe procure or abet the felonie, or that (knowing thereof) doe receiue the same woman. Then followeth the Felonie of the carnal and vnlawfull abuse of the body of any woman (or rather a woman child) beeing vnder the age of ten yeares, the which, for resolution of the doubt (that M. Diar noteth, 14.Eliz.Reg.) was declared to be Felonie (by the Statute 18.Eliz. cap.6.) whether she consent or no, since the law iudgeth her vnable to consent at her so tender age.

Rape. And lastly, commeth the rauishing of any woman against her wil, where she neither consenteth

ſented before, nor after: and the rauiſhing of her by force, though ſhe conſented after: which was ordayned to be Felonie (by the ſtatute of *Weſtminſt.* the 2. ca. 34.) ten yeres after ſuch time as the impriſoument of two peeres laide vpon the offendour, (by *Weſtminſter*, 1. cap. 14.) was not found ſufficient to repreſſe the fault: which maner of puniſhment alſo, M. Stanforde thinketh to haue beene rather a mitigation, then any increaſe of thoſe paines, that the elder lawes did lay vpon rauiſhment: And whereas that Statute of *Weſtminſter* 2. in the firſt branch thereof, vſeth the words thus: Rauiſh, where ſhe doth not aſſent, &c. and in the ſeconde branch thus, Rauiſheth with force: I ſuppoſe that the word Force is but declaratorie in that place, and ſet downe to none other end but to ſignifie, that all rauiſhment is accompanied with Force: and therewith agreeth the Etymologie of the word Rauiſhment it ſelfe, which is deriued from the Latine *Rapere*, that is, to take, catch, or snatch, by Force, or violence.

But here, if the partie complaining to bee rauiſhed, ſhal thereby conceiue a childe, then Britton taketh it to be no Rape at all: becauſe her conception proueth her conſent. So, if ſhe were kept, and vſed by the rauiſher, as his concubine, M. Bracton (fol. 148.) thinketh that hee cannot be ſaid to haue rauiſhed her: yet, if ſhe were an harlot to an other man, the rauiſher ſhal not be

be excused thereby (as it there seemeth) because shee consented not to him: And howsoeuer the wicked man force her, yet can it be no Rape in him, vnles that either he take carnal knowledge of her, or be present and aiding to another, that so forceth, and abuseth her. 11. H. 4. 13: & Stanford fol. 24: & 44.

Felonies touching the body and goods.

Thus farre we haue dealt with the bodie alone: now must we ioyne the bodie and the house (or the goods) together, and within this measure, there fall two diuers faults, whereof the one is called Burghlarie, and the other, Robberie: each of them the more hainous in the sight of law, because not only the house is inuaded, or the goods sought for, but also therewithall a great terrour, and dreadful daunger is brought to the body and person by them. And, seeing that feare is most fearefull in the time of sleepe, when we least thinke of it, and can worst auoyd the danger, let vs begin with the night theefe that committeth Burghlarie.

Burghlary, & the circumstances thereof.

Burghlarie seemeth to take the name of Burghlar, which is deriued of Bowr (a chamber, or inner roome) and laron (a theefe) So, that Burghlary is the theft done by entry into a dwelling house. And Brit. (fo. 17) describeth a Burghlar (whom his printed booke calleth a Burgessor) to bee one, that feloniously in the time of peace breaketh open Churches, or houses, or the walles, (or gates) of Cities or Boroughs.

But,

But, as the lawe is commonly taken in our time, there are foure speciall thinges that must concurre to make this felonie: that is to say, the time, the place, the maner of the fact, and the end for which it is committed.

The time is not the time of peace alone (which is noted of the ancient writers, but only to shew, that in the time of ciuile and intestine warre such breaking of a house against rebels is iustifiable inough) but in the time of peace, it must be in the time of night also. For (as M. Stanford fol. 30. truely obserueth) the Inditements of Burghlary be alwayes of this forme, *quòd noctanter fregit*: and therewithall agreeth a report of 4. E. 6. in M. Brooke *Corone 185*.

But in this part, it shall bee good to enquire, whether all that time, which is betweene the Sunne setting and the Sunne rising, shalbe accounted vnto the night for this purpose: or whether that time of light which is in the Euening, betweene the Sunne setting and night, and likewise in the Morning betweene the night and Sunne rising (whereof the one is called *Aurora*, and the other *Crepusculum*, and the beginning of the one, and end of the other, is by Ptolome saide to bee when the Sunne is xviii. degrees vnder our Horizon) shall bee taken from the night, and be added to the day. For, as the booke *Corone* Fitzh. 293. taketh the Euening that is after the setting of the Sunne, and before the depar- The time.

departure of his light, to be a part of the day, in respect of an amerciament to bee laide vpon a towne for the escape of him that killed a man within that time: So, the Statute of *Winchester*, 13. E. 1. (speaking of the watch) saith, that it shal continue all the night from Sunne setting, to Sunne rising: by which words (as you see) it comprehendeth both *Auroram* and *Crepusculum* within the night.

The place. Concerning the place, it may either be Publique as the Church for prayer, and the walles (or gates) of Townes, (or cities) for defence: and then you may number those actes amongst Publique felonies: or els it may be Priuate, as a dwelling house: and then it seemeth to bee no Burghlarie, vnlesse some person be at that time within it: because (as I saide) the lawe in this offence beholdeth the place and the person together. But, although this offence bee not committed in the very bodie of the dwelling house, but in a stable that is parcell thereof, and neare vnto it, yet will it be taken for Burghlarie, as Master Brooke, *Corone*, 180. doeth write: and seeing like reason begetteth like lawe, so must it be, if the offence be perpetrated in a Barne of the house, or other out house that is so adioyning.

Each Colledge in the Vniuersitie, each Inne of Court and Chauncerie, and euerie other like place, that is distributed for the seuerall lodgings

gings of ſundry particular perſons, is but one entier dwelling houſe for this purpoſe. So that, if any Chamber (or lodging) there, be broken vp in the night ſeaſon, for the doing of a felonie, it will worke to Burghlarie, though no man bee then in it, if ſo be that any perſon be within any other part of the whole Colledge, Inne, or ſuch other houſe. But, if a man doe in the night ſeaſon breake into an others cloſe, *ad ipſum interficiendum*, that is no Burghlarie, becauſe it is not into any houſe, 13. H. 4. 8.

The maner of the Burghlarie conſiſteth, partly in the breaking of the houſe, and partly in the entrie into the ſame. For, if a man breake the houſe to doe a Felonie, and enter not, it will be no Burghlarie, Stanf. fol. 30. and Collections Diar. 99. But yet, it ſeemeth by Shard (*Lib.* Aſſ. 27. pl. 38.) that he which is taken in the onely attempt of a Burghlarie ſhall be hanged for it, although he haue not put the thing in vre. The maner.

And of the ſame opinion (as Crompton reporteth) was both Sir Anth. Browne, Sir Edward Mountague, and Sir Rob. Brooke, late ſeuerall chiefe Juſtices of the Common place, the firſt of them holding, that if one doe but make an enterprize (by night) to enter into a houſe to robbe there: the next, that if hee ſhall but onely turne a key, being on the inner ſide of the locke of the doore: and the thirde, that if vpon an attempt of Burghlarie, they within

the house, shal cast out their money for feare, and the attemptors take it away: that in euery of these cases, it is a ful, and complete Burghlarie. Hee also reporteth that Iustice Portman, (3. Edw. 6.) did execute one for Burghlarie, which was taken in the night, putting backe the leafe of a window with his dagger: and the like is to bee thought of him that shall bee taken drawing the latch of a doore, that is not otherwise fastened.

But, admitting that those doe amount to breaches, and entries in Law onely: and that a breaking with an actuall entrie is requisite, in the case of Burghlarie: Let vs consider, what other actes shall be taken for sufficient breakings, and entries.

If one doe breake the glasse windowe of a house, by night, and then with a hooke draweth out anie goodes: or doe breake a hole in the wall of any house by night, and shooteth in thereby with a gunne or bowe, at one that is within the house, to kill him, and yet misseth him: or doe in the night season come into the house, by the helpe of a key, to steale any goods there: or doe suddenly come into the house by night (the doore beeing open) whereby the owner flieth to his chamber for feare, crying for helpe, and shutteth the doore, and the offendour is taken shouing at the chamber doore: in euerie of these cases also, it hath bene taken to bee

Burghla-

Burghlary. Report Crompton.

In like ſort is it, if the goodman of the houſe (perceiuing that Theeues are without) will open the dooꝛes, and goe out againſt them: and whileſt hee is in hand with ſome of them, one of their companie ſteppeth to the dooꝛe, and ſtretching his hande ouer the thꝛeſhold (but not ſetting his foot ouer it) diſchargeth a dag againſt one of the ſeruants that ſtandeth to defende the entrie. 26. Eliz. *Idem.* And albeit, the firſt entrie into the houſe were lawful, oꝛ ſtanding with the good liking of the owner: yet by matter ſubſequent it may become a bꝛeach and entrie that ſhall amount to Burghlarie.

As, if Theeues ſhall come into a Towne by night with Huy and Cry, pꝛetending that they be robbed, and ſhal pꝛay the Conſtable to make ſearch foꝛ the Felons: and whileſt he goeth with thē into ſome mans houſe to ſearch, the theeues binde and robbe both the Conſtable and the goodman of the houſe: foꝛ, in ſuch a caſe, the entrie ſhal bee deemed Felonious, euen from their firſt comming. But, if the caſe be ſo, that theeues doe enter into a houſe by night (with a minde to ſteale) thoꝛow a hole in a wall that was bꝛoken before, oꝛ thoꝛow a dooꝛe then ſtanding open, and doe then depart without doing any other harme, and be taken vpon purſuite: it is good to be enquired, whether ſuch a maner of entrie will make them Burghlars.

But if diuers come to doe a Burghlarie, and but one of them entreth & committeth it, the reſt of them ſtanding neere to the doore, or about other parts of the houſe, or a good ſpace off (as at a lanes end or at ſome orchard gate, or field gate) to watch that no help ſhal come: yet is it Burghlarie in all that companie, 11.H. 4.13. Hull.

The end.

The laſt of thoſe points that muſt meete in the making of a Burghlarie, is the ende, and intent for which the offendour commeth: which of neceſſitie muſt be, either to kill, or robbe ſome perſon, or to doe ſome other Felonie. *Lib.* Aſſ. 22. pl. 95.

For if a man ſhould breake, and enter a houſe, by night, of purpoſe onely to beate a man, that is but Treſpaſſe: Stanf. 30: but if it bee to kill him, then it will be Burghlarie, although he doe not ſo much as touch him. *Corone* Fitzh. 267: & 13.H.4.7: And ſo is it alſo, if the purpoſe be to rob, although hee taketh away nothing at all with him, *Corone* Fitzh. 185: & 264. *lib.* Aſſ. 22. pl. 39. But if the intent were to perpetrate a Rape (which was not Felonie, at the common law, as ſome haue thought) then is there ſome doubt and queſtion made vpon it.

Robbing in a houſe, booth, or tent.

Thus much of Burghlarie: whereunto thoſe offences be very neere, that are ſet forth by the Statutes, 23. Hen. 8. cap. 1: & 5. E. 6. cap. 9: to this effect following, viz. If anie perſon ſhal robbe an other in anie part of his dwelling houſe,

house, or place (the owner, or dweller, his wife, children, or seruaunts being within the same, or within any place within the precinct of the same, and being either sleeping, or waking) or shall robbe any person in any Tent, or Booth, in any faire, or market (the owner, his wife, children, or seruants, or seruant, being within the same, sleeping, or waking) he shal be a Felon. Betwene the which offences, & Burghlarie, the difference standeth thus: First, that these may be done by day, whereas Burghlarie is by night onely: and then, that in these there must bee a Robberie, or taking away of some thing, whereas in Burghlarie the offence may be performed, though the offendor take nothing away with him. And (by the report of M. Dalyson) these Statutes shalbe straightly construed, (in fauour of life) and according to the bare letter: so that, if the robberie bee done by day, and there be in the house but one seruant onelie: or there be in the house, booth, or tent, but a stranger, or soiourner onely: the fact shal not be adiudged an offence against these Statutes.

There is yet also one other Felonie concerning houses: For M. Bracton sayeth, that if one doe burne a dwelling house maliciously, he shal die the death for it: and Britton fol. 16. describeth the manner, writing that he shall bee burned for it: besides the which, *Westminst.* 1. cap. 15. forbiddeth the Repleuin (or bailement) Burning of houses.

of such an offendor. And the burning of a house *Felonice* (saith M. Brian 3. H. 7. 10.) was Felonie at the Common law.

So is it, to burn a barne (in the night) that is adioyning to a dwelling house: 11. H. 7. 1. Cur: or to burne a barne (in the day) that hath anie corne (or grayne) in it, although it doe not so adioyne.

Nowe, if the wicked purpose of man bee, to burne the house of A. onely, and yet by that fire the house of B. is burned also: then is the burning of this last house Felonie, because it followed of the fire that was maliciously kindled to burne the first. *Comment.* 475.

Robberie. But, to leaue the house, and to come to the goods that do accompany the person, wee must bewray the violent Robber, so called, either by corruption of the Latine *Raptor*, from which our tongue wil easily fal to robber: or else of Robe, because he that after this forcible and fearefull manner, spoyled an other, did vse to take his robes (or clothes) from him. After the which sense, and like Etymologie, the *Grecians* called such offenders λῃστὰς and the Latines *Expilatores*. And in this kinde of Felonie, the lawe regardeth not so much the value of the thing robbed, as the feare that the Robber bringeth with him to the person of him that is inuaded. So that if hee take anie thing at all, it will bee Robberie, though it be not worth so much as

as one penie; *Corone* Fitzh. 115: & 178. & *lib.* Ass. 22. pl. 39. And heereof M. Bracton, and Iustinian doe terme this offendor, *Furem improbum, & prædonem, qui rem alienam rapit.* So, that Robberie, is the felonious (or theeuish) taking of any mans goods from his person, to his feare and against his will, to the ende to steale them. And in this description, the worde (taking) is largely extended against the offendour: in so much that it may proove Robberie, though the owner may (in some case) rather seeme to haue deliuered the goods, then the theef to haue taken the same from him: if it proceede and be done by feare and menacing.

And therefore, if the theefe doe assault a true man, and threaten him, that (if hee wil not deliuer his purse) he wil kil him, by meanes whereof hee deliuereth his purse vnto him with his own hands: yet this is plaine Robbery, because he doth it for the feare wherwith the theefe hath stricken him: Stanf. 27.

So, if the theefe doe (without anie expresse wordes of threatning) onely assault a true man for his purse, who (fighting with him, and finding himselfe too weake) throweth downe his purse, and the theefe taketh it. 20. Eliz. Report Crompton.

So, if theeues take a man, and compell him (by manace of killing) to sweare vpon a booke to bring vnto them a certaine summe of money.

or other goods: and thereupon he goeth, & bringeth the same vnto them: this is adiudged Robberie: 44.E.3.14. and yet he was once at liberty, and out of their hands, so as he might seeme to be freed of all the feare wherein he stoode by them. But yet, who seeth not, that the same feare that made him to take the oath, did still followe him euen to the performance of that which hee had sworne and promised.

And so is it, if theeues assault mee for my purse, and I (in the flight from them) droppe it downe into a bush, vpon hope to haue it againe if I may escape them, & they espie it, and take it away with them: for, had they not put mee in feare, I woulde not so lightly haue throwen my purse with money from mee. Neither is the worde person so nicely to bee construed in this description, that (to make vp Robberie) the goods must needes bee annexed (or fastened) to the person. For P. Stanford (fol. 27.) reckoneth it to be Robberie, if one shal take my goods openly against my wil, in any place wherein I am present, though the goods bee not vpon my person at all: which seemeth to bee good reason, seeing that in both cases, the losse is the same, and the feare is alike.

But now withall, some thing must bee taken from the person: or els the fact wil proue no robbery: for, if a man do lie in waite to robbe me, and (drawing his sworde vpon me) hee willeth me

me to deliuer my money: and I likewise betake me to my weapon, and thereby repell him, and take him, eyther by fight, or by Huy and Cry made after him: this will not be Felonie at this day, sayeth M. Stanford, agreeing in opinion with Ienney, 9. E. 4. 26: because he tooke nothing from me, and yet in the old time (when the wil and the act were of like account in Felonie) it was otherwise holden, as it may appeare, *lib.* Ass. 27. pl. 38: & 25: E. 3, 42.

Againe, a man may take some thing from the person of another without title to it, and by force, and to his feare, and yet it may be doubted, whether the act will amount to Robberie: as for example it happened, 26. Elizab. that one came to a Fisherman that trauelled by the high way with fish to sell: and prayed to haue fish of him for money: the Fisherman refused to sell vnto him: and hee (with force and feare) tooke some of the fish, and gaue him money to the value (and aboue) for it: and of this case the Iustices of the Session thought good to bee aduised. Report Crompton.

For an ende of Robberie: two theeues attempted to rob a true man, who fled from them, the one of the theeues followed him in chase, and the other espying another true man in the same high way (but out of the sight of his fellow theefe) rid towardes him, and robbed him: and then returned to his fellow, from whome the

the first true man had in the meane while escaped: this was adiudged Robberie in both the theeues. Report Crompton: and yet the one of them was neither within the sight of that Robberie, nor assented to it: But because they both came to rob, (and at the same time) this fact was committed by the one, it is worthily to bee imputed to the other also.

Cutpurse. Amid betweene the violent Robber that taketh from the person by force, and the miching theefe that stealeth when the person (or the owner) is absent, standeth the crafty cutpurse, or pickpurse, that taketh goods (or money) from the person by sleight onely, the owner neyther being made afrayd, nor witting of it. This fact as it is no robberie, because it is void of assault, force, & feare: So, neither is it any Felony vnto death, vnlesse the thing taken bee of more value then xii. d. in money. *Collect.* Diar, fol. 224: And in this kind of offence, it is thought necessary, that the theefe haue an actuall possession of the thing, seuered from the person of him from whom it is taken. So that, if the offendor cut a mans girdle, at which his purse hangeth, & the purse falleth to the ground, and hee be discried before he take any hold of it: this will not make Felonie: But if he take the purse in his hand, and then cut the girdle, and afterward let them fall, that will proue him a Felon, because he had a manuel possession of the purse remoued from

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the perſon: Crompton. And now I am (by the courſe of mine owne order, and diuiſion) drawen from the body, and driuen to take in hand that Felonie that worketh vpon the goods alone.

This doeth M. Stanford call Larcenie: a name fetched from the Latine *Latrocinium*, which language would as ſoone haue knowen it to be her owne, if we had called it *Lotrorinie*, but ſhe muſt be contented to beare with our cuſtome of clipping whatſoeuer wee doe borow from her. M. Bracton calleth it *furtum*, and Varro ſaid, that *fur* was deriued *à furuo*, (that is darke) becauſe theeues do willingly worke by night, as hating the light of the ſunne that may bewray them. But Gellius noteth him of error, and thinketh that *fur* came of the olde Greeke word φώρ, which ſignified a thiefe (or ſtealer) ſo named (as Iuſtinian writeth) of the worde *fero*, which is both Greeke and Latine, and ſignifieth to cary, or beare away: which is the very ende for which the theefe commeth. Larcenie.

M. Bracton defineth it thus: *Furtum eſt contrectatio rei alienæ fraudulenta, animo furandi, inuito domino*: which definition is tollerable, although M. Stanford doe not like it. For, Bracton meant thereby to deſcribe all manner of theft, whether it were robberie it ſelfe, or great or petite Larcenie, euen as the Ciuilians do vſe to teach. But, becauſe I haue taken another way in Felonies, I will (for mine owne purpoſe, ſake)

ſake) deſcribe, Larcenie to bee a felonious and fraudulent taking of another mans perſonall goods (remooued from his body or perſon) without his will, to the end to ſteale them.

Petite Larcenie.

And, albeit petite Larcenie bee not puniſhable by death (as the greater Larcenie is) yet be they both Felonious and fraudulent takings, &c. for, the enditement of petite Larcenie (ſaith Iudge Fitzh. 27. H. 8. 22.) muſt be *Felonicè cepit*, and he ſhall forfait his goods for ſuch a Felonie. So that there is no difference eyther in the nature of the offence, or in the mind of the offendor, but only in the value of the thing that is taken, which alſo maketh the degrees of the puniſhment.

And therefore, if it be found by the Jurie to exceed xii. d. in value, hee ſhall die for the fault: and (if it be of, or vnder that wooꝛth) he ſhall be corrected by the diſcretion of the Iuſtices that may heare and determine it: *Weſt.* 1. cap. 15: Britton fol. 21: *Corone* Fitz. 404: & 406. But here on the one ſide, if a man commit diuers petite Larcenies, which (in all) doe exceede the value of xii. d. then may they be put together into one Enditement, and hee ſhall ſuffer the paines of death therefore. *Corone* Fitz. 415: and on the other ſide, if two or moe perſons, doe ioyne in the ſtealing of goods that do ſurmount xii. d. they all muſt die for the fault, *ibidem* 404: for (as ſaith M. Stanford) that felonie is ſeuerall

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in lawe, euen as those others were seuered in act, and deed.

But for the more cleare vnderstanding of Larcenies, I will first shew of what things Larcenie may be committed: and then, after what maner, and with what mind, the same may bee performed: for, as touching the persons that may be charged with that fault, they will bee shortly comprehended. Of what things Larceny may be.

It is Felonie therefore, to steale any the moueable goods of any person: but because it may in some cases bee doubted, whether the things so taken are to be numbred amongst moueable goods, or no, I will proceed in particularitie.

Money, plate, apparell, housholde-stuffe, Corne of any sort (or hate, or fruit) that is seuered from the ground, horses, mares, coltes, oxen, kine, sheepe, lambes, swine, pigges, hens, geese, ducks, peacockes, turkies, and other beasts, and birds of domesticall (or tame) nature, are such, as felonie may bee committed in the taking of them. It may be Felonie also, to take some that be of a wild nature: as to take young pigeons, or young hawkes out of their nestes (or airies) before that they can flie. So, to take fishes that be kept in a trunke, stewe or pond, 10.E.4.15: 18. E.4.8: *lib.* Ass. 22.pl.98.& 18.H.8.2. For, as a man hath a propertie in those first things that be domesticall, and therefore it is plainely theft to take them: So in these latter, he hath such a possession

poſſeſſion of them, that the one ſort for weakeneſſe, & the other for the reſtraint, cannot (without helpe) vſe their nature, and forſake him: and therefore it is like iniurie to ſteale them.

But otherwiſe it is of doues, or hawkes, that can flie at libertie: and of fiſhes that liue abroad in riuers, or ſtreames: becauſe they are *nullius in bonis*, and therefore *occupanti conceduntur*. And yet, by Statute law there is one exception: For, if a man find a Falcon, Tarecelet, Lanor, Laneret, or other Falcon that was loſt, and doe not forthwith bring it to the Shirife to bee proclaymed, but do ſteale, and cary away the ſame it is declared to bee Felonie: 34.E.3.cap.22: & 37.E.3.cap.19. But, to goe forward: To take Pheſants, Partriches, Hares, Conies, Herons, Swans, or Decre, that are abroade: or to take dogges of any kind, apes, parats, ſinging birds, or ſuch like, (though they be in the houſe) is no Felonie: becauſe theſe latter bee but for pleaſure onely, and are not of any value, and thoſe former bee of a wilde nature, as thoſe are whereof I ſpake before, 18.H.8.2. And therefore, Iuſtice Hales (7.E.6.) thought it no felonie, to take a diamond, rubie, or other ſuch ſtone (not ſet in gold, or otherwiſe) becauſe they bee not of price with all men, howſoeuer ſome men do hold them both deare and precious.

And here againe, is ſome exception: for to take a tame decre is Felonie, if at the leaſt the taker

taker know it to be tame, 10. Ed. 4. 15: & Stat. 25. And the Statute 1. H. 7. ca. 7. maketh it Felonie to hunt deere, or conies (after some sort) in a forrest, parke, or warreine.

Furthermore, to take the flesh of any tame, or wild foule or beast (that is dead) out of the possession of another man, is felonie: Stanf. 25. So, to take the wooll from the sheepes backe, or to take the skin, and leaue the body behind, will be Felonie: Report Dalyson.

And now, you must remember, that in the description I said, of anothers mans personall goods: for, to take chattels reals, will not amount to Felonie: As to take the charters of a mans land, in or without a boxe, or to take an Infant in ward, can be no Felonie: because they be reall, and not personall chattels, 10. E. 4. 15: And yet the Statute (5. Eli. cap. 14.) toucheth them in Felonie, that shall secondly offend in forging deeds concerning another mans land, &c. by which they endeuour to steale (as it were) his inheritance from him. Againe, to steale fruit that hangeth on the tree, or to cut downe & carry away the tree it selfe, or to take the lead from a house, or church, will not worke to any felonie: because these things be part of the freehold, till they be seuered, and cannot therefore bee reputed for any chattels. *Corone* Fitzher. 119: & 256. & Report Crompton: but if I gather mine apples, or cut downe a tree of mine owne:

then

then may another become a felon by the taking of eyther of them. Stanf. 25.

And (by the opinion of M. Marrow) if a man cut downe a tree of mine this day without title, and fetch it away to morow, that will proue him a Felon, because it was a chattel seuered when he tooke it.

Moreouer, to take treasure that was hidden, or goods or cattell that bee waiued, or wrecked, or straied, is no Felonie: *Corone* Fitzher. 187: & 265: & Stanf. 25: because it doeth not yet appeare who is the owner of them, and the wordes of the description bee an other mans goods: And it is not like, as where the goods may be sayd to be, *Bona capella, bona parochianorum, bona cuiusdam mortui ignoti*, or *bona domus, aut ecclesiæ* in the time of vacation: for in al these cases, there be *domini*, or owners of them to some purpose. Enditemet, Fitz. 15: yea, if a man doe baile (or lend) his goods to another, and do afterward feloniously take them againe, this shall charge himselfe in Felonie: for, albeit he were owner of them, yet had the other them in a speciall propertie also, by which hee might haue an appeale or action of Trespasse, against a stranger that should steale, or take them: 7. H. 6. 43. And agreeably to this, the Ciuilians doe adiudge it theft, if one (that layeth his goods to pledge) doe embesell them from the partie to whom they were engaged.

So,

So, (by the opinion of Marr.) if I lend my plate to one that melteth it, and I take that mettall feloniously, it is felonie in me, because the propertie is altered by altering of the fashion.

Thus farre of the things that are subiect to this Felonie. Now, let vs see what maner of act and demeanor is requisit to make the fault full. Two things must concurre, namely, to take: and to cary away (or remoue) the thing taken, with a purpose to steale the same. For the Enditement must alwayes be *cepit, & asportauit*, or *cepit, & abduxit*. And in eyther of these two, the letter and word is not so much to bee regarded, as the meaning and sense thereof, for the more seuere, and assured suppression of offendors. For, as it is clearely Felonie, if a man take my goods (with a mind to steale them) without any deliuerie by me: So may it proue Felony also, though he come first vnto them by deliuerie from mine owne hand.

In what maner, Larcenie is committed.

And therefore, if a Tauerner deliuer a goblet to one to drinke his wine, and hee carie the goblet away, it is Felonie, because the Tauerner gaue him no possession thereof, but the vse for the time only, 13. E. 4. 10. So, if I deliuer to a man certaine bales of Dade, or a tunne of wine, to cary to *Canterbury*, giuing him money for the cariage thereof, and hee carieth them to *Yorke*, and there breaketh vp the bales or tunne,

and conuerteth part of the Dad or wine to his owne vse, it is Felonie in him, *ibidem.*

But if I deliuer my goods to a man to keepe, and hee fraudulently consumeth them, or otherwise conuerteth them to his owne profite, it is no felonie, *ibidem:* for, that booke agreeth, that if the other had conuerted all the Wine, or all the Dade (as he receyued them) to his owne vse, it had bene no Felonie by reason of the deliuerie: but here may it bee truely said vnto him, that neyther the Dade nor wine were deliuered to him in that plight whereto himselfe hath brought them, (and so vpon the matter) he had no deliuerie of them, but a bargaine to cary them.

And if my Cooke, Butler, or horse-keeper, shall goe away with any of my vessell, plate, or horses, which they haue in their keeping, it is Felonie, because they haue no deliuerie: insomuch, that whilest those things were in their hands within my house, the possession of them is continually remayning in my selfe, and not in them: But (3. H. 7. 12.) there is some strong opinion against it. If I deliuer my goods to one to cary to a place in London, and hee carieth them accordingly, and then conueyeth them away, and selleth them, it wil be Felonie, because the priuitie of the deliuerie was determined so soone as he came to the place. Stan. 25. & then he hath no more a deliuerie, then if I should giue

to

to one the key of my chamber, and hee would therewith open the doore, and take the goods that are therein from me. Stan. 25.

A man may gather by Glanuille, that the ancient lawe gaue no iudgement of Felonie against him that came to the possession of the goods by the hand of the owner: for he saith (*lib.* 10. cap. 13.) *Furtum non est, vbi initium habet suæ detentionis per dominum rei:* and thereupon grew those differences of opinions concerning goods in the charge of seruants: for the appeasing whereof (in some part) the Statutes (21. H. 8. cap. 7: & 5. El. cap. 10.) do declare it to be Felonie, if any seruant of the age of eighteene yeeres (other then an Apprentice, which also is to be vnderstood of him that is bound by Indenture, by the name of an Apprentice) shall go away with, or conuert to his owne vse, any money, iewels, goods, or cattels of his masters, or maistresses, and of his or her deliuerie to keepe, of the value of xl. s. to the intent to steale the same. But, euen as to labor to take away al doubts in law, is nothing els, but *Hydræ caput amputare:* So, within fortie yeres after this Statute (which was made for the resolution and clearing of those former doubts) sundry questions did growe vpon the construction of this lawe it selfe: First, if a man deliuered an Obligation to his seruaunt to keepe, and hee tooke vp the mony due thereby, and went away

with it: and then, if a man deliuer to his seruant wares to be sold, at a faire, (or Market) and he selleth them there, and goeth away with the money: whether these offences bee within that Statute, 21. Hen. 8. And it seemeth by the better opinion, that they are not: for in the first case the money was not deliuered, but the Obligation: and then the seruaunt stole not that which was deliuered, but an other thing, and that also a thing in action only, and so of no value at all. And in the latter question, the first part of the former reason holdeth also. Howbeit, if the seruant receiued xx. li. in gold, which hee changed into siluer money, and then ran away with that, his fault will rise to Felonie, because, that golde and siluer were both but money, though diuers mettals. *Collect.* Diar, fol. 5: & Report Crompt. 27. El. And it seemeth by Diar there, that if one seruant do deliuer to his fellow seruant, the goods of their M. to keepe, & he goeth away with them, this shalbe Felony within the meaning of that statute, because it shal be sayd to be the deliuerie of the M. himselfe.

An other felonie there is also declared by the Statute (33. Hen. 6. cap. 1.) against the houshold seruaunts, that doe take and spoyle the goods of their deceassed master: But that Felonie groweth vpon their default of apparance in the Kings Bench, after Proclamation, and therefore our Iustice of the Peace can not well

well take knowledge of it.

The other poynt, that (as I sayd) must concurre to make vp this Felonie, is the carying away, or remotion of the thing that was feloniously taken. In which part also, it is not of necessitie, that it be cleane caried out of the place where it was, but it sufficeth that it be so far remooued, or stirred, that the euill mind of the taker may plainly appeare. As, if a guest wil take the sheetes out of the chamber where he lodgeth, and then goe towards the stable for his horsse, with a mind to steale the sheetes, & is take with them, this maketh his Felonie full, although he hath not caried them quite out of the house. *Lib.* Ass. 27. pl. 39: And like lawe is it, if a man doe take a horsse in another mans close with felonious intent, and bee deprehended in the fault before that hee haue led him out of the same close. Report Dalyson.

Touching the persons that may be charged with Larceny, they shall best appeare by a Negation: or handling of those which cannot bee charged with it. And for that purpose, if the husband, and the wife, do commit a Larcenie together, it shall be imputed to the husband only. *Corone* Fitz. 160. Neither is she chargeable, if the husband compell her to commit the Larcenie alone: *Lib.* Ass. 27. pl. 40. But if she do it by his only commandement, without other constraint, then M. Bracton affirmeth it to be Felonie in

What persons are chargeable in Larceny.

her, and M. Stanf. doubteth of it.

And the wife shall not be accounted a Felon for stealing of the goods of her owne husband: yea, although another (that knoweth it) take thē of her, yet is he no Felon for it *Corone*, Fitz. 455: & Stanf. 27: But a wife may become a Felon by her owne act, the husband not knowing thereof: as if she steale another mans goods, or receiue the theefe that stealeth them: and in such case if the husband know not thereof, or (knowing it) doe forthwith forsake his house, and her company, hee shall not bee charged for her offence. *Corone* Fitz. 383. The Infant, the furious man, the lunatique, & the dumbe, & deafe person, are chargeable in Larcenie, after the same sort, as they be charged in Homicide before.

Accessories to Felons, by the common law.

The principall Felons of all sortes being thus perused, wee are nowe to consider of their Accessories: for they be Felons also. It may plainly be collected by M. Bracton, and by the Statute of *Westm.* 1, ca. 15, that in ancient time the Lawe tooke knowledge of three sortes of Accessories: some before the Felonie done, as commanders thereof: others at the very time of the Felonie, as those that (being present) gaue force or ayde thereunto: and others after the Felonie committed, as those which receiued or comforted Felons knowing of the offences that they had made.

And M. Stanford (fol. 71.) sayeth, that all Abbet-

Abbettors, conſenters, and procurors, be taken to be within the reach and meaſure of acceſſaries before the offence committed. But, forasmuch as it is euident by many bookes, (and namely by 7.H.4.27: 11.H.4.13: 10.E.4.14: 21.E.4. 71 : & *Corone* Fitz. 309: 314 : 350: 433 : and others) that the law is otherwiſe taken at this day touching them of the ſecond ſort, that be of ſocietie with the principall, and be alſo preſent with him at the doing of the Felonie, (whether it be murder, Robberie, Burglarie, or Larcenie) inſomuch, as it adiudgeth them principals no leſſe then him that doth actually perpetrate and worke the offence (as it may ſufficiently appeare by that which is ſayde before) I am eaſed of the labour to deale with them, and ſhal not need to handle any other ſorts of acceſſaries, but thoſe only, that be eyther before, or after the time of the felony done & committed.

Acceſſaries by Statutes.

And here (at the firſt) I am fallen vpon a two-fold queſtion: the one whether there may be any Acceſſories to ſuch Felonies as were not at the common lawe, but were afterwards created Felonies by ſtatutes, vnleſſe the ſame ſtatutes do ſpecially ſo appoint it: and if there may be ſuch acceſſaries before the offence, yet then whether there may be any Acceſſaries to ſuch a Felonie after the offence alſo.

And, albeit the firſt of theſe queſtions might haue receiued the more eaſie reſolution: for that

all such as doe will or procure any Felonie to be done, are the very first cause thereof, so as without them it is to bee thought that it should not haue bin committed: yet they of the Parliament house haue (in the making of sundry new Felonies) thought it conuenient for the auoyding of all doubt, to comprehend in plaine speach the Accessaries, both before and after. For so you may see it done, by the seuerall Statutes, 1. Mar. cap. 12. made against Rebellious Assemblies: 1, & 2. Phil. & Mar. cap. 4, against Egyptians: and so of such others.

And this caused M. Stanford (fol. 44.) to write that there coulde bee none accessaries (after the offence) to the Felonie of embezelling Records, declared by 8. Hen. 6. cap. 12: nor to the Felonie of coniuration, set foorth by the Statute 33. Hen. 8. cap. 8: because those two Statutes haue none expresse mention, but onely of the Accessaries before the offence committed: And that there could bee none Accessarie at all, to the Felonie of taking of maydens, widowes or wiues against their wils (enacted 3. H. 7. cap. 2.) because thereby, the procurors, abbettors and receyuers are adiudged to bee principall Felons.

But, for a more certayne rule in all these poynts, I will vse this one case, that happened in the Kings Bench (3. & 4. Phil. & Mar:) as Iudge Dalyson reporteth it.

Two

Two men (saith he) were endited vpon that Statute (3.H.7.cap.2.) for the taking of a woman against her will feloniously: and two other men were then also endited, for that (knowing the Felonie) they did receiue, and comfort the first sayd offendors. In this case, albeit the Statute doeth make as well the procurors, and abbettors of the Felonie, as also the receiuers of the woman (knowing the matter) to be principall Felons: and thereby these two persons, which receiued the Felons onely, (and not the woman) can be deemed no principals: yet, al the Iudges of that Court were then of the opinion, that these receiuers be accessaries to this Felonie by the Statute, no lesse then if it were to a Felonie at the common law. For, when a Statute (say they) maketh a Felonie, it is a Felonie, and hath accessaries to it, euen in the same maner as if it had beene Felonie at the common lawe. As in a Rape, which is declared by the statute (W.2.cap.34.) saying, If a man rauish any woman, where shee assented not before, nor after, let him haue iudgement of life, and member: yet, if another (knowing of the fact) shall receiue the rauisher, he shall be an accessarie, no lesse then if it were to a Felonie that had beene by the common law.

Accessories, before the offence was done.

The ground of Accessaries being thus leuelled by the line of this iudgement. I will walke euenly thorow it, and handle (vnder one) both the

the accessaries before, and after, as well by the common law, as by the Statutes.

Such therfore as shal either wil, command, hire, procure, conspire, consent, or abette, anie Murder, Rape, Robberie, Burghlarie, or Larcenie to be done, and bee not present at the doing thereof, are accessaries before the Felonie done, and thereby Felons when the Felonie is done. And albeit, that the chiefe offendor do not accomplish the fault altogether in the selfe same sort, as it was before hande agreed, and plotted betweene him and the accessories: yet, if any felonie fall out by that attempt, either against the same person, or against any other, then those that were so priuie thereunto shal be taken for accessaries vnto it. As if A. willeth B. to beate or to rob C. and he attempteth it, and thereby so beateth him that he dieth thereof, now is A. an accessarie to this Murder. *Corone* Fitzh. 314. & *Comment.* 475.

So, if a man command one to set fire on the house of A. and he so doeth, and by kindling the same fire the house of B. is wasted also: this commander is accessarie to the burning of the house of B. though he neuer meant that the fire should go any further then to the house of A. only, *ibid.* For, in either case, the latter euil was but a sequele of the former, which was commanded by him, and attempted by the other.

Againe, if a man hire one to poyson another, and

and he killeth him with a ſwoꝛd, oꝛ contrariwiſe killeth him with poyſon when he was willed to ſlay him by ſwoꝛd: this pꝛocuroꝛ is an acceſſarie to the murder: Dalyſon.

So alſo, if one pꝛocure a man to kill another in the fielde, and hee killeth him in a houſe, oꝛ Church: oꝛ to kill him ſuch a day, oꝛ at ſuch an houre, and he killeth him at another day oꝛ houre. Foꝛ, their wicked purpoſe is effected as they agreed, though by an other meane (oꝛ circumſtaunce) then was ſet downe betweene them. *Comment. 475.*

But if I command one to take A. and hee taketh and robbeth him. I am no acceſſary to his offence: Stanf. 41. So, if one doe conſpire with an other, that the one of them ſhall burne the houſe of A: and he burneth the houſe of B. oꝛ that he ſhall ſteale the hoꝛſe of A. and he ſtealeth his oxe: oꝛ that he ſhal rob A. in the high way, and he robbeth him Burghlarly in the night ſeaſon within his houſe: Now is that other none acceſſarie to any of theſe Felonies, foꝛ that they bee either in other thinges, oꝛ of other kindes, then were intended. *Comment. 475.* And (which is moꝛe ſtrange) if the huſband conſpire with another to poyſon the wife, and he foꝛ that ende pꝛocureth and bꝛingeth poyſon to the huſbande, who tempereth it with an apple, and giueth it to his wife to eate, and ſhee (thinking none euill) deliuereth a moꝛſell thereof to her daughter there pꝛeſent,

who

who also eateth it, and dieth of the poyson: yet is that other person none Accessarie to this murder that the husband hath committed: because it is a distinct thing from that which hee purposed: and (against him that is not the immediate murderer) the sequele of the fact shall not be drawen to charge him beyond that which was intended by him. *Comment. 476.*

But nowe, in all these, and the like cases of Accessaries before the fault, it is of necessitie that the commander, hyrer, procurer, or conspirer, continue his minde, and purpose, euen till the Felonie be fully done and executed. And in this respect, though it be no felonie (as I said) to strike a woman with child, whereof the child dieth after that it is borne: Yet if a man shal maliciously procure a woman that goeth with child to destroy that child so soone as she shal be therof deliuered, and she thereupon doeth it: Now is he an accessorie to this Murder: because that procurement before the birth, continueth vntil it be executed by the Murder which followeth the birth. Collection Diar 186. But otherwise, if he shal repent him of his malicious minde, and thereof giue notice to the other, and withall charge him that he make no such attempt, and hee doeth neuertheless bring the same to effect, then is such commaunder or procurer no more Accessarie to the fault, then if he had neuer imagined, or thought vpon it. *Comment. 476.* Neither

ther do I thinke, if a man foreknowe of a Felonie (entended to bee done) and doe conceale it, and thereby suffer it to passe on to effect, that he can be made an Accessarie thereby: unlesse hee haue also uttered some expresse consent, or giuen assured signe of his owne allowance, and liking of the same: but rather, that such his concealement will weigh to a misprision (or contempt) for which he shal be fined: euen as if it happened him to be present at the doing of a Felony (whereof he neither had knowledge, nor came therfore, nor gaue aide thereunto) and would neyther disturbe the Felon, nor leuie Huy and Cry after him. Stanf. fol. 40. & *Corone* Fitz. 395.

Accessaries after the Felonie, be those, which (knowing of the Felonie) do feloniously, or with an euil mind, receiue, harbour, fauour, or otherwise comfort, the Felon, whether it bee in the same countie in which the Felonie was done, or in any other. For if a man shal only make sute by his word, (or writing) in the behalfe, and for the deliuerance, of one whom he knoweth to be a Felon, this is done of fauour, but yet not with such an euil intent, as that it shall make him an Accessarie thereby: *Lib.* Ass. 26. plac. 47. But if a man doe (upon Huy and Cry) arrest a theef that hath stollen the goods of an other, and doe then (with an euill minde) take the goods, and so let the Felon goe, he is to bee arraigned for it, as an accessarie to the Felonie, if not as a principall

Accessories after the offence.

cipall Felon: for so is the doubt mooued, *Lib.* Ass. 27. plac. 62.

Againe, if a man pursue, and take a Felon that hath stollen his goods, and then taketh his goods, and suffereth the theefe to goe at large, he is no Accessarie thereby: for hee may *agere ciuiliter*, or *criminaliter*, at his owne pleasure, as M. Bracton writeth: but if he take money of the theefe, to the ende that hee shall not giue euidence against him, whereby the theefe escapeth, then is hee become an Accessarie to the felonie of his owne goodes, by the opinion of Iudge Hales (6. E. 6.) because it is done with a minde to comfort the Felon in his euill doing. Report Dalison. To receiue, harbour, or relieue with money, a man that is bailed for Felonie, and bound to appeare for his triall, heedeth no danger of being an Accessarie, because the law doeth him that fauour, and the Felonie cannot bee concealed by it: Neither will it make a man accessarie, to receiue (or buye) the goodes that hee knoweth to bee stollen, vnlesse he do receiue the theefe that stale them: 9. H. 4. 1. & *Corone* Fitzh. 126: & 208. And although the preamble of the Statute (2. & 3. E. 6. cap. 24.) seemeth to call him an Accessarie, that receiueth the goods onely: yet that must be vnderstood of him that receiueth the goods, and the Felon together. For it was not the purpose of that statute (as I thinke) to make any new Accessarie

that

that was not before, but onely to prouide triall (where it wanted) for those Accessaries that were before.

Furthermore, as one man may bee Accessarie to a principall Felon, So may another man bee Accessarie to that accessarie also. For if one doe feloniously receiue, or comfort him that is an Accessarie, hee is fallen into equall danger with him, and is called an Accessarie to an Accessarie, *Lib.* Ass, 26. plac, 51: *Corone* Fitzh, 196. Accessorie to an accessorie.

Againe, in the iudgement of an accessarie, nature is not allowed her excuse: for, (*Corone* Fitzh. 427.) a felon fled to the house of his brother, who shutte the foredoore against them that pursued the felon, and conueied him out of the house by a backe doore, whereby hee got to the Church: & this brother was adiudged an accessary for it. But yet, such consideratiō hath the law of the duty of the wife towards her husband, that she shall not bee deemed an Accessary, though (knowing him to haue committed a felonie) she doe both receiue, and comfort him, and also couer the fault that he hath done: *Corone* Fitz. 383. And in all cases of an after accessarie, this one thing is generall, and requisite, that the fact (to which he is an accessary) be a felonie at the very time in which he becommeth an Accessary to it. For, if a man doe giue a mortall wounde to another vpon the first day of August, and a third person

person (knowing thereof) receiueth him, two or three dayes together, and letteth him go, and then afterward he that was stricken dieth of the wounde within the yeere and day: yet this receipt maketh the other none accessarie, because the principall fact was then no felonie. Report Dalyson.

One person, charged as principal, and Accessorie.

And if a man haue bene charged as a principall felon, and vpon triall be acquited therof, yet may he (if the special matter will so serue) be an accessarie thereto after the offence, though not an accessarie before. *Corone* Fitzher. 200: & 463: For (as M. Bracton saith) those offences which make an accessarie before, be so fast tyed, and knit to the principal fact (whereof they bee very causes) that they cannot bee seuered from it: Whereas those others (which make an Accessarie after) doe follow the fact aloofe, which also is complete without them.

And to this opinion, M. Stanford enclineth fol. 105: But as he confesseth that the law was otherwise taken in auncient time, and that the partie might be charged as an Accessarie before the offence also, as it may appeare *Corone* Fitz. 424: So I find, that the late opinion of all the Iustices (1. & 2. Phil. & Mar.) was agreeable to the same: because the principall fact is one offence, and the accessary fact (whether before or after) is another offence, and distinct from it: insomuch that although a pardon of all felonies, will

will not discharge a murder, yet it is auaileable for all the Accessaries thereto, be they Accessaries before or after. Report Dalyson.

Now, as all that which is hitherto spoken, is meant of Accessaries to Felons, that bee not attainted: So, is the same much more to be holden, concerning accessaries to Felons that be attainted, and of record. For, to receiue an approuer (knowing him so to be) wil make a man accessarie to the Felonie that he hath cõfessed: & of like daunger it is, wittingly to receiue him that is attainted of Felonie, by way of outlawrie: *Corone* Fitzh. 285. And in this latter case, there is some opinion, that a man shall be an Accessarie for receiuing a Felon attainted (especially in the same Countie) though hee knowe not of the attainder at all. *Corone* Fitz. 377. & *Collect.* Diar 355: for euery man (say they) is bound to take knowledge of a matter of Record, at the least in the same, (though not in a forreine) countie: but M. Bracton very reasonably requireth a right and direct knowledge in the partie, to make him Accessarie, as well in the one case as in the other: for, albeit a record (and especially the pronunciation of an outlawrie) bee so notorious, that euery man may easily come to know the same: yet, were it an ouer great extremity, that each man shoulde (vpon the perill of his owne life) enforme himselfe, and take vnderstanding of it.

I haue now (as you see) gone ouer this large field of principals, and Accessaries, in all these sundry sorts of Felonies: so much the more slowly in pace as I haue laboured to cary the Reader in companie with mee, and that also the rather, because it is a point of great waight, frequent in vse, and fitte for euery Iustice of the Peace to heare, and vnderstand.

What things some one *Iustice* may do.

Nowe am I to prosecute by way of short note, the residue of the power of some one Iustice of the Peace, and so to conclude this second Booke.

Poore people.

The Register book of the poore is to remaine with one of the Iustices of the Peace of that diuision. And either of those two Iustices of peace, before whome the Collectors for the poore are appointed to make their account, may commit him (that shal refuse or neglect to make his account, by the space of fourteene dayes after request to him thereof made) to the next Gaole, there to remaine without baile or mainprise, till he hath made it, and paid the surplusage of his receite. 14. Elizab. cap. 5. & 27. Elizab. cap. 11. Learne if the Register booke is yet to haue continuance.

Shirifes.

The *Custos Rotulorum*, or the eldest of the *Quorum* in his absence, ought (at the generall Sessions after S. Michael) to appoint two Iustices of the peace (the one being of the *Quorum*) to haue the ouersight, and controlment of the

the Sherifes entring of plaintes and of their amerciaments. And one of those Iustices may examine (and without further enquirie) conuict the gatherers of the same amerciaments, if they gather any more money then is contained in their lawfull Estreits, 11.H.7.cap.15.

Euery person finding or seeing any to offend the Statutes made against the shooting in crossebowes and handgunnes may arrest and bring, or conuey him to the next Iustice of the Peace of the Countie, where hee was found offending, who (vpon due examination and proof thereof before him made) may by his discretion commit him to the Gaole, there to remain til hee shall truely pay the one moitie of the forfaiture of this Statute to the Queene, and the other moitie to such first bringer, or conueyer, 33. H.8.cap.6. Crossebowes and handguns

In this, and such other cases the Iustice of Peace, hauing (as it seemeth) the whole matter committed to himselfe alone, ought to be warie and circumspect, least either hee rashly condemne the guiltlesse, or negligently suffer the guiltie to escape: And vpon the offence sufficiently proued, it is necessary that in his *Mittimus* (or precept to the Gaoler) there be conteyned, the names of the parties, with the manner of the offence, and howe long time hee is to bee kept in prison for it.

Furthermore, he is to make a Record of the

matter, and to send the Estreit of it into the Eschequer, whereby the Barons may vpon intelligence thereof cause the Queenes duetie to be leuied to her vse. And although the forme of the *Mittimus*, might be easily fashioned by some other Precedents in this booke, yet for the more ready helpe of the Iustice in this, and towards other like, I wil not stick to leaue him a patterne both of that, and of the Record it selfe also.

To the *Keeper* of her *Maiesties* Gaole at *Maidstone*, in the said countie, and to his deputies or deputie there, and to euerie of them.

Kent. FOrasmuch as this present day, A. B. and C. D. of Halling in the saide Countie Yeomen, did arrest, and bring before me at Halling aforesaid, one I. at S. of Friendsbury in the said Countie Mariner, whome they had seene and found the same day (as they sayde) shooting in a handgunne, charged with powder, and a pellet, at a Conie in a certaine place in Cuxstone within the saide Countie called the Church-fielde, contrary to the lawe of this Realme, and thereupon praied me that Iustice might be done in that behalfe.

I Iohn Leueson Knight being the next Iustice of the Peace in the saide Countie to the place aforesaid, did then at Halling aforesaide vpon

vpon the ſaid requeſt take the examination of the ſaid Iohn at S. and did alſo then, and there heare the proofes of them the ſaid A. B. & C. D. touching the ſaid offence: And for that it did then manifeſtly appeare vnto me, as well by the teſtimonies of them the ſayd A. B. and C. D. as alſo by the plaine confeſſion of him the ſaid I. at S. that hee had not then lands, tenents, fees, annuities, or offices to the cleare yearely value of 100. li. and that hee had ſhot in the ſaid handgunne in maner and forme as is aforeſaid, I doe ſend vnto you herewith the bodie of him the ſaid I. at S. as conuicted of the ſaid offence: Requiring you in her Maieſties name, to receiue him into your ſaid gaole, and him there ſafely to keepe as her Maieſties priſoner, vntill that he ſhal haue truely payde the peine and forfaiture of ten pounds of lawfull money of Englande laide vppon him for his ſaid offence, by the Statute therof made in the 33. yeere of the raigne of the late King Henry the eight, that is to ſay, the one moitie thereof to our ſaid Soueraigne Lady, and the other moitie to them the ſaid A. B. and C. D. the firſt bringers of him before me. And this ſhalbe your ſufficient warrant in this behalfe. Hereof faile you not, as you will anſwere for your contempt at your owne perill. Yeouen at Halling aforeſaide, the 20. day of Nouember in the 34. yeare of the raigne of our ſaide

Soueraigne Ladie Elizabeth by the grace of God, Queene of England, Fraunce and Ireland, defendor of the faith, &c.

By me the saide
Iohn Leueson.

Kanc. *Memorandum quod 20. die Nouembris anno regni dominæ nostræ Elizabethæ, Dei gratia, Angliæ, Franciæ, & Hyberniæ Reginæ fidei defensoris, &c. 34. A.B. & C.D. de Halling in comitatu prædicto Yeomen, quendam I. at S. de Friendsbury in dicto comitatu Mariner inuenerunt & viderunt apud Cucstone in comitatu prædicto, die & anno supradictis, in quodam tormento (Anglicè vocat.* a handgunne) *oneratopuluere tormentario & globoplumbeo (Anglice* charged with gunpowder and a leaden bullet) *in quendam cuniculum ad tunc existentem in quodam loco ibidem vocato* Churchfield, *sagittantem & exonerantem, contra formam Statuti (in Parliamento domini H. nuper Regis Angliæ octaui, apud Westminster, anno regni sui 33. tento) editi & prouisi: Ac proinde die & anno supradictis, præfat. I. at S. arrestauerunt, & apud Halling prædict. coram me Ioh. Leueson milite, (vno, & dicto loco proximo Iusticiariorum, dict. dom. Reg. ad pacem in dicto comitatu conseruandam, necnon ad diuersas transgressiones, & alia malefacta in eodem comitatu perpetrata audiendum & terminandum assignatorum) ad tunc*

vnà

vnà ſecum adduxerunt, petentes inde iuſticiam fieri. Qua quidem petitione audita, Ego præfatus Iohn Leueſon, apud Halling prædict. die, & anno ſupradictis, debitè ſuperinde examinaui præfatum I. at S. ac probationes prædict. A.B. & C.D. in hac parte cepi: Ac propterea quòd tam per probationes prædictas, quàm per confeſſionem ipſius I. at S. ad tunc & ibidem apparuit mihi manifeſtè, quòd præfat. I. at S. (cum non haberet in iure ſuo proprio, nec in iure vxoris ſuæ ad vſum ſuum proprium, nec aliqui alij ad vſum eiuſdem I. at S. haberent, terras, tenementa, feoda, annuitates, aut officia, ad clarum annuum valorem centum librarum) in tormento prædicto modo & forma prædictis ſagittaſſet, contra formam Statuti prædicti, Ego præfat. Iohannes Leueſon, prænominatum I. at S. die & anno ſupradict, proximæ Gaolæ dict. dom. Reg. apud Maidſton in comitatu prædicto de tranſgreſſione prædict. conuictum commiſi, ibidem moraturum, quouſq; pœnam & forisfacturam decem librarum legalis monetæ Angliæ verè ſoluerit, viz. vnam medietatẽ inde dictæ dom. Reg. & alteram medietatem inde dictis A.B. & C.D. primis eiuſdem I. at S. coram me ductoribus. In quorum omnium fidem & teſtimonium, Ego præfatus Ioh. Leueſon, hijs præſentibus, ſigillum meum apposui, Datum apud Halling prædict. die & anno ſupradictis.

Per me præfatum
Iohannem Leueſon.

Handgunne & Crossebow.

And euery person (other then such as are so authorized by the yeerely value of one hundred pound, as is aforesaid) ought if he bee licenced to shoote in crossebowe, or handgunne, and do inhabit in the countrey, to present his name to the next Iustice of Peace adioyning. And thereupon the Iustice ought to present and recorde the same before the Iustices of the Peace at the next Quarter Sessions, 2. E. 6. cap. 14. But learne of others, whether this part is to haue continuance still, or els did onely extend to such persons as had licence at that time.

High wayes.

The Superuisors for amendment of the high waies, ought within one moneth after any offence done by any against the Acts (2. & 3. Phi. & Ma. cap. 8: & 5. Eli. cap. 13. to present that offence to the next Iustice of the Peace: And thereupon he ought to certifie the same at the next generall Sessions within the same Countie. 5. Eli. cap. 13. & 27. Eli. cap. 11.

High wayes in Kent.

Euery occupier of any maner of Ironworks, which shal cary any coales, Mine, or Iron, to or from the same, betwene the twelft day of October, and the first day of May yeerely, shall likewise cary, and lay (for euery fiue loades of coale or Mine, and also for euery tunne of Iron that shall be caried by any waine, or cart, betweene the said dayes, by the space of one mile, thorow anie high wayes vnder the hilles commonly called the North-downes of Surrey and Kent) one

one vſuall cart load of ſindar, grauel, ſtone, ſand or chalke, meete for the amending of thoſe high wayes, to bee imployed in ſuch places thereof, as any Iuſtice of Peace of the Countie dwelling neere to the place where the ſayde high wayes ſhall be moſt auoyded by ſuch cariage of cole, Wine, or Iron, ſhall be appoynted: or els pay for euery ſuch cart load (ſo to haue bene caried and layed) two ſhillings and ſixe pence, within eyght dayes after the demaund thereof, to the hands of the ſayd Iuſtice of Peace, or his aſſignie: the ſame to be leuied by diſtreſſe (after ſuch demaund and default) vpon ſuch Iron, as ſhall be caried thorow the ſame high wayes, 27. Eliz. cap. 19.

Now, foraſmuch as this ſecond booke (contayning the power of one Iuſtice out of the Seſſions) hath great varietie, and is thereby growen ſomewhat long, I will hereto for his eaſe annexe a ſummarie and ſhort Table, by which hee may ſuddenly, and at once (as it were) beholde, whatſoeuer hee alone (out of the Seſſions) may take vpon him.

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Howbeit, the Iuſtice of Peace is not (in the execution of any of theſe Statutes) to ſit downe and reſt himſelfe, vpon my ſhort collection or note of them, wherein (howſoeuer I haue obſerued the ſubſtance of the matter) the whole maner of the doing could not bee comprehended: But he muſt alwayes (for his more aſſurance) flie vnto the Abridgement of the Statutes, or rather to the booke at large, and thereby leuel his whole proceeding.

The

THE THIRD BOOKE, containing the *Practicque* of *two*, or moe *Iustices* of the Peace out of the *Sessions*.

What things any two *Iustices* of the Peace may doe out of the *Sessions*: and therein first of *Riots*, &c.

Cap. 1.

THE authoritie and power of one Iustice of the Peace, (without the Sessions) thus perused and passed ouer, let vs nowe examine the like power of two, both in generalitie, and in particular.

It is vniuersally true, that whatsoeuer thing one Iustice of the Peace alone is permitted to doe, eyther for the conseruation of the Peace, or in the execution of the Commission or Statutes, the same also may bee no lesse lawfully performed by two (or moe) Iustices: except it bee in a very fewe cases, where some Statutes doe

doe seeme specially to appropriate the execution thereof to some one certaine Iustice, eyther in respect that he is Next to the place, eldest of the Quorum, or such like.

The power of two Iustices of the Peace, in punishing of Riots,&c.

But we will proceed by particularities: and because the first place (of right) belongeth to the Peace, (as wherin the office of this Iusticer chiefly consisteth) and for that also wee haue (in the 5. chap. of the second Booke) disclosed, what an vnlawfull Assemblie, Rout, and Riot be, to the end that one Iustice (which hath some portion of power in them) might therby vnderstand, what it is that hee ought to preuent, or stay (in that behalfe) for the custodie of the Peace: let vs here supply in two Iustices, that power in punishing those Riots, Routs, and Vnlawfull assemblies, which we sayd before to bee wanting in one: And that shall we the better do, if we first of all lay open the Statute of King Henry the fourth, containing a most ample authoritie, as well for the repressing, as for the Recording of the same: and then may we adioyne somewhat out of some other Statutes also.

IF any *Riot*, *Assemblie*, or *Rout* of people against the lawe bee made, the Iustices of Peace, or three or two (at the least) of them, and the Shirife (or Vndershirife) of the countie, shall come with the power of the conntie (if neede bee) to arrest them, and shall arrest them,

them, and ſhall haue power to record that which they ſhal find ſo done in their preſence againſt the lawe. And by that Record ſuch offendors ſhall be conuicted, in maner and forme as is contayned in the Statute of *Forcible entries.* (*viz.* 15.R.2.c.2.) And if ſuch treſpaſſers bee departed before their comming, then theſe Iuſtices of Peace, or three, or two of them, ſhall diligently enquire within a moneth after ſuch *Riot*, *Aſſemblie*, or *Rout* made: and thereof ſhal heare and determine according to the law of the land: and if the trueth may not be found in the maner as aforeſayde, then within a moneth then next following, the ſayd Iuſtices and Shirife (or Vnderſhirife) ſhal certifie before the King and his Councell, all the deeds and circumſtances therof, which Certificat ſhall bee of like force as the verdite of twelue men, &c. And if ſuch offendors doe trauerſe the matter ſo certified, then the Certificat & Trauerſe ſhall be ſent into the Kings Bench, to be tried and determined as lawe requireth. And that the Iuſtices of the Peace dwelling moſt nigheſt in euery County, or Vnderſhirife, ſhal do execution of this Statute, euery one vpō paine of one hundred pounds, to be paied to the King, as oft as they ſhall bee found in default. 13.H.4.cap.7.

Whereupon the Statute (19.H.7.) addeth, that if the ſayde Riot, Route, or vnlawfull aſſembly, Maintenance and embracerie.

assembly, be not found by the sayde Iurie, by reason of any maintenance, or embracerie of the sayde Iurours: then the same Iustices and Shirife (or Vndershirife) shall also certifie the names of the maintaynours and embracers in that behalfe (if any be) with their misdemeanours that they knowe, vpon payne of euery of the sayde Iustices and Shirife (or Vndershirife) to forfeit twentie pounds (if they haue no reasonable excuse) for not certifying the same: which Certificate so made, shall bee of like force as before, &c. And euery person duely prooued to be a maintainer, or embracer in the same, shall forfeit twentie pounds to the King, and shall bee committed to Warde, there to remaine by the discretion of the Iustices. 19. H. 7. cap. 13.

Assistance.

Hereunto also the Statute (2. Hen. 5.) adioyneth further, That the Kings liege people (being sufficient to trauell) shall bee assistant to these Iustices, Shirife (or Vndershirife) when they shall bee reasonably warned, to ride with them, in ayde to resist such Riottes, Routes and Assemblies, vpon payne of imprisonment, and to make fine and ransome to the King. Prouided alwayes, that the sayd Iustices, Shirife (or Vndershirife shall doe their sayde offices, at the Kings costes, in going, tarying, and returning, by payment therof to be made by the Shirife, by Indenture betweene

At the Kings charges.

betweene him and them, of the ſayd paiment. And that ſuch Riotters, (attainted of great and hainous Riots) ſhal haue one whole yeres impriſonment at the leaſt, without being let out of priſon by bayle, mainpriſe, or in any other maner, during the yere afore ſaid: and that the Riotters (attainted of petite Riots) ſhall haue impriſonment as beſt ſhall ſeeme to the King and to his Counſel: and that the fines of ſuch Riotters attainted, ſhall bee by the ſame Iuſtices encreaſed and put in greater ſummes, then they were wont to bee put in ſuch caſes before that time, in ayde and ſupportation of the coſtes of the Iuſtices and other officers aforeſayd in this behalfe, 2. H. 5. cap. 8.

Capias & Proclamation.

Now, if it be witneſſed by two Iuſtices of the Peace, and the Shirife, by Letters vnder their Seales, to the Lord Chancellour of *England*, that any Murders, Manſlaughters, batteries, robberies, aſſemblies of people in great number in maner of inſurrection, or other rebellious Riots, haue bene done, and that ſuch offendors haue withdrawen themſelues, to the intent to auoid the execution of the common Lawe, then the Lord Chauncellor may make a Writ of *Capias*, and thereupon (if need be) a Proclamation, &c. 2. H. 5. cap. 9. which Statute was made to endure til the nert Parliament, and ſo diſcontinued: but it was reuiued by 8. H. 6. & made perpetuall: which moreouer,

ordaineth, that (before this Writ of *Capias* shal be awarded) two Iustices of the Peace, and the Shirife of the Shire where such Riot is supposed, ought to witnesse, that the common voyce and fame runneth in the sayd Countie of the same Riots. 8. H. 6. cap. 14.

The letter (or Text) of these lawes being thus layd open, let vs also see what exposition and helpe M. Marrow, and others doe bring to some partes thereof, and specially to that of king Henry the fourth: as well for arresting the Riotters, as for Recording, Enquiring, and certifying of the Riot it selfe.

Some part of the occasion of the statute 13. H. 4.

Forasmuch as the power giuen by the Statute (17. R. 2. 8. c. 8.) for repressing of great Assemblies and Riots, was deliuered with such coniunctiue, and generall words, viz: To the Shirife, and other the Kings Ministers, that it was often doubted, not onely who were meant by the word Ministers, but also whether the Shirife, and any of those Ministers (apart) might performe the seruice, or that they ought al to ioyne together therein: Therfore this Statute (13. H. 4.) cleareth those questions, and putteth expresse power into the hands of any three (or two) Iustices of the Peace, and of the Shirife, (or Vndershirife) not onely to arrest such Riotters, but also to conuict them of their offences, by recording of that which they should see to bee done against the Peace.

And

And this authoritie of assembling the power of the countie, and of arresting, and imprisoning the Riotters, was once before this time (namely, 2. R. 2. cap. 6.) committed to some: but it was by and by after (euen in the selfe same yeere of the same King) resumed, as a thing ouer-hard to be borne (that a Freeman should bee imprisoned, without an Enditement, or other Triall by his peeres, as *Magna Charta* speaketh) vntill that the experience of greater euils had prepared, and made the stomacke of the Common wealth able and fit to digest it.

Now, whereas here is mention of the power of the Countie: by vertue of those words, M. Marr. thinketh, that the Iustices of the Peace, Shirife or Vndershirife, ought to haue the aid and attendance of all Knights, gentlemen, yeomen, labourers, seruants, apprentices, and villaines: and likewise of wardes, and of other yong men that be aboue the age of xv. yeeres: because al of that age are bound to haue harnes by the Statute of *Winchester*. But women, ecclesiasticall persons, and such as be decrepite, or doe labour of any continuall infirmitie, shall not be compelled to attend: for the Statute (2. Hen. 5. cap. 8. which also worketh vpon the same ground) sayeth, that persons sufficient to trauell, shall be assistant in this Seruice. And it is referred to the discretion of these Iustices, Shirife or Vndershirife, how many or how

Power of the County.

few, they will haue to attend vpon them in this businesse: and how or in what sort, also they shall bee armed, weaponed, or otherwise furnished for it.

Reformation. But be it, that information be made to these Iustices, and Shirife (or Vndershirife) that certaine persons bee riotously assembled at Dale, and they doe thereupon gather people to suppresse them, and when they come to the place, they find no Riot there: yet are they excuseable for this assemblie of power so made by them: because they did it by information.

And though they doe so much without any information, yet if they find a Riot when they come to the place, they shall not onely bee excused for calling together such company vpon their owne motion, but may also lawfully proceede to punish the offendors, Fitzh. *titul.* Iustic. *del* P. 9.

Arrest. And this they ought to doe by Arrest, if they be present: In the execution of which Arrest, they may also iustifie the beating, wounding, or killing, of any of the Riotters that shall resist it. So, if they meete with the offendors in their way riotously arrayed, and comming from the place, they may neuertheless arrest them for their vnlawfull assemblie: And after this arrest so made, the power of the countrey ought to ayd the Shirife for conueighing the Riotters vnto the Gaole: without which the Arrest were but

nuga-

nugation. And in this poynt it differeth (by the opinion of M. Marrow) from the arrest of a Felon by Huy and Cry: for there (sayeth hee) when they haue once deliuered the Felon vnto the Shirife, they are no longer compellable to waite vpon him.

The arrest thus made, these Iustices, Shirife, or Vndershirife, ought to make a record in writing of that which they see and find: the which (since it is a conuiction in it selfe against the offendors) ought to bee formall and certaine, as well for the time, and place, as for the number, weapon, maner, and other circumstance. For the parties shall be concluded thereby, and shall not be receyued to trauerse, or deny it: because the view of a Riot (as M. Fitzher. sayeth) is not to be trauersed. In so much as if eyther they doe Record, that they saw a Riot, where in truth there was none at all, or that it doe afterwards appeare by the Record it selfe, that the Acte which they Recorded doth not amount to Riot, yet be the parties without any remedie. And if a man be bound to the Peace, and afterwardes such a record of a Riot, is made against him and others, he shall neither iustifie (as M. Marr. holdeth) nor plead not guiltie, in a *Scire facias* vpon his Recognusance. The Record of the Riot: and the credite thereof.

If therefore a man bee slaine, or maymed, or a rescous be done to the officer, by such a Riot, then the record ought to be, *Riotosè occiderunt*,

or *riotosè maihemauerunt*, or *riotosè rescusserunt*: and not *Felonicè*, nor simply *rescusserunt*: because their authoritie in this case is restrayned to the Riot onely: and extendeth not to the Felonie, but so, that the parties may (notwithstanding that record) plead not guiltie to the Felonie, or to the Rescusse, howsoeuer (for the Riot) they are estopped.

And this Record ought to remaine with the one of them: and they, (and none other Iustices of the Peace) shall imprison the Riotters, and assesse their fine, Marrow: which Fine they are willed by the Statute (2. H. 5. cap. 8.) to put in greater summes then they were woont to be put in such cases, for supportation of the costes of the sayde Iustices, and other officers in this behalfe, as well in going and tarying, as returning, whereof payment ought to be made by the Shirife, by indenture thereof betweene him and them.

But if the Riotters shal escape, after that these Iustices, Shirife, or Vndershirife do come & see the Riot, then can they neither arrest them at any other time (saith M. Mar.) nor award Processe against them vpon that Record which they doe make: And then, that Record must bee sent into the Kings bench, frō which place Processe may be made vpon it: where also the parties shal not be admitted to any trauerse, but must of necessitie make Fine for their offences.

And

And now, if these Iustices, Shirife, or Vndershirife shall goe to see one Riot, and then an other Riot falleth out in their presence, yet may they make a record of that: Marr. So, if they be assembled for some other cause of seruice, or for some priuate busines (as for an arbitrement, or such like matter) and a Riot happeneth to be committed in their sight, they may record it: Marrow.

Likewise, if the Riotters shall make a Riot vpon the Iustices, and Shirife that doe come of purpose to arrest them for their former Riot, they may record that also, Mar. and so may they (as I thinke) record any Riot that shall be done vpon themselues, whilest they be assembled for any other cause then for to suppresse a Riot, though M. Marr. seemeth to deny it.

These bee the things that I haue obserued, concerning the execution of these parts of these Lawes, declared against vnlawful Assemblies, Routs and Riots: whereunto I will adioyne a case or twaine, reported by M. Fitzh. and will then proceede as I promised.

If two Iustices of the Peace (without the Shirife or Vndershirife) shall see certaine persons in doing any Riot, they may cause them to bee arrested, & may make a Record of that offence, whereof the parties shall be for euer concluded. Fitz. *tit.* Iustice *del* P. 9. whereto hee addeth (in his booke of Iustices of the Peace folio 17.)

that if two such Iustices shall make such a Record, where (in trueth) they sawe no such Riot, that yet the parties shall bee estopped, and are without remedie.

How this Record may be made without the Shirife, or Vndershirife, since none other Statute giueth this power of recording but this only, I cannot hitherto perceiue: vnlesse it bee vnderstood of a Riot, cõmitted in their presence whilest they be sitting in Iudiciall place, (as in their Sessions) or at the least done to their disturbance, when they be comming vnto the Sessions: and so farre in this way with him goeth the booke, 7.E.4.18: as well as that (14.H.7.) which is reported by Fitz. *tit.* Iustic. *del* P.9.

The *Recording* of a *Riot* by the *Iustices*, and *Shirife*, or *Vndershirife*, may be after this (or the like) maner.

MEmorandum quod 20. die Ianuarij Anno regni domine nostre Elizabethe, Dei gratia. &c. Nos Thomas Scot *Miles, &* Rad. Hayman, *duo Iusticiariorum dicte domine Regine ad pacem in com. predicto, &c. assignatorum, &* Iacobus Hales *miles ad tunc vicecomes eiusdem comitatus, ad querimoniam & petitionem* A. B. *de* C. *in dicto comitatu* Yeoman, *in propriis personis nostris accessimus ad domum mansionalem ipsius* A.B. *in* C. *predicta, ac tunc*

& ibi.

& ibidem inuenimus D.E.F.G.H.I. *de* C. *prædicta* Labourers, *ac alios malefactores & pacis dictæ Dom. Reg. perturbatores ignotos, ad numerum decem personarum modo guerrino arraiatos, viz. gladijs, pugionibus, galeis, Loricis, arcubus & sagittis, illicitè & riotosè aggregatos, & eandem domum obsidentes, & multa mala in ipsum* A.B. *comminantes, in magnam pacis dictæ Dom. Reg. perturbationem, ac populi sui terrorem, & contra formam Statuti in Parliamento domini Henrici, nuper Regis Angliæ quarto, anno regni sui decimo tertio tenta editi & prouisi. Ac propterea nos prafati* Thomas Scot, Rad. Haym. & Iacobus Hales *prædict.* D.E.F.G.H.I. *&c. tunc & ibidem arrestari, ac proxima gaolæ dict. Dom. Reginæ in comitatu prædicto duci fecimus, per visum & recordum nostrum de illicita congregatione & Riota prædict. conuictos, ibidem moraturos quousq; finem dictæ Dom. Reg. proinde fecerint. In cuius rei testimonium huic præsenti recordo nostro sigilla nostra apposuimus. Datum apud* C. *prædicta, die & anno prædictis.*

And the *Mittimus* for conueying the Riotters to the Gaole, may bee easily (with a few wordes of change) framed out of that which is before in the Chapter of Forcible entries.

But now, as these lawes haue laide downe this order of proceeding against the Riotters Enquire of the Riot.

that

that shall be deprehended in their offence: Soe haue they also prouided, that if the offendors bee gone, yet their fault shall not escape with them. And therefore, these Iustices are commaunded, first, to enquire of that by others, which they and the Sherife or Vndersherife, did not see & finde: and if the trueth may not thereby be found, then to certifie what be the impediments.

To this Enquirie, the Sherife or Vndersherife be not associated, as they were before in arresting the Riotters and recording their disorder: because they are now ministers for returning of the Enquirie, and therefore to be spared from being Iudges therein.

And albeit these Iustices doe not goe to see the Riot as this Statute biddeth, yet may they Enquire thereof within the moneth after. Euerie Iuror of this Enquirie, ought to haue lands in that Countie to the value of xx. s. by yeare of Freehold, or xxvi. s. viii. d. of Copyhold, or of both, aboue all charges: vpon euery of which also, the Sherife ought to returne xx. s. in issues at the first day, and xl. s. at the second day. 19. H. 7. cap. 13.

Moreouer, where the Statute saith, that the same Iustices shal Enquire, yet if any other Iustices of the Peace there (and not they) shal doe it, that will suffice, Marr. Neither is it of such necessitie to haue the Enquirie within the moneth, that for default therof the presentment shal-

be

be voyd for the Iustices of the Peace may Enquire thereof at any time by force of their Commission: but if it be not had within the moneth, euerie of them that be the next, is in daunger to loose 100.li. for it. And therefore, if these Iustices doe charge the Iurie within the moneth, and doe giue day vnto them for yeelding their presentment after the moneth, the Statute is not offended by it: Marrow. But if it happen the parties to fal to an accord amongst themselues, so as none of them will sollicite the Iustices to make the Enquirie: yet ought the Iustices to proceed *Ex officio*, as knowing that eyther some of the Iurie, may haue knowledge of the fact, or that (vpon Proclamation made to giue euidence for the Queene) some other persons may come forth ready to enforme them.

The trueth of the matter being found by this Enquirie, these Iustices haue authoritie by this statute not onely to make out Processe against the offendors vnder their owne *Teste*, but also to commit them to prison til they make their Fine, and to deliuer them, after payment of the same, or vpon suerties taken for it: or otherwise to receiue their trauerie, and thereupon (if the matter wil so serue) to discharge, and dismisse them.

For, to all these effects (as I thinke) the wordes of the Statute (heare, and determine according to the law of the land) doe lead and enable them.

On

Certifie the Riot.

On the other side, if by this Enquirie the fault be not brought to light, being hindered either by the malicious peruersitie of the Iurors themselues, or by the vnlawfull maintenance, countenance, or embracerie of other men that put themselues into the cause: yet ought there (within one moneth after such Enquirie) a Certificate to be made, as well of the names of the principall offendours, and of so much of the fact, and circumstances thereof as may by anie wayes or meanes appeare, as also of the names of such mainteiners, and imbracers, and of their misdemeanors in this behalfe.

And here the Sherife (or his Vndersherife) is once more called to this seruice, and ioyned with these Iustices: who by reason of his presence at the Enquirie, may both helpe to espie the euill, and adde force, and credite to the Certificate. The ende of which Certificate, is but onely to put the offendours to answere: for, although the words of the Statute doe make the certificate equal in force with the verdite of xii. men: yet, forasmuch as it followeth in the same Statute, that the Certificate may be trauersed, that is a plaine proofe, that it is no conuiction at all, but is only of the nature of a declaration, presentment, or enditement, at the common law: and therefore also, it ought to comprehend the certaintie of the time, place, persons, and other circumstances, though perhappes (as M. Marrow

Marrow holdeth) it needeth not to expresse the additions of the parties, as not beeing within the words of the statute (1.H.5.cap.5.)because no processe of vtlawrie doth lie vpon it.

And, whereas the Enquirie is good, though it be had after a moneth from the offence committed, this Certificat (saieth Marrow) is not good, vnlesse it bee made within the moneth after the Enquirie: because the power of certifying is giuen by the statute onely, which is the Warrant that they must pursue.

Moreouer, where the Statute willeth that they shall certifie before the King and his Counsel: it seemeth to me, that the same ought to be done, either to the bodie (and boord) of the priuie Counsel, or into the Starre Chamber at at the least: because the Statute it selfe doth by expresse wordes distinguish the King and his Counsell heere, both from the Chancerie, and from the Kings bench, which in many other cases be taken for the king, and his counsell also. And this I doe the rather note, because I haue read of Certificates of this kinde, sent by Iustices of the peace into the Starre Chamber, and for that it is penall to those Iustices, Sherife, or Vndersherife, if they shall not addresse their Certificate, as the Statute appointeth them.

But now, if two Iustices, and the Sherife go to see a Riot, and other two Iustices make the Enquirie: then the one sort or the other of them, with

with the Sherife or Vndersherife, may make the Certificate, Marr. And if foure Iustices, the Sherife, and Vndersherife goe to see a Riot, and two of those Iustices & the Sherife ioyne in one Certificate, and the other two and the Vndersherife ioyne in an other Certificate, then that Certificat whereunto the Sherife is partie shal be preferred: because the authoritie of the vndersherife, is ouershadowed by the Sherifes presence: Marrow. But otherwise, if two Certificates be equal, then that shal be preferred which is best for the Queene.

And the same rule must hold, where the Enquirie, and Certificate shal disagree: for, if the Enquirie shall finde that the Riot was made by xii. persons, where in trueth it was made by 100: or if the Enquirie bee of xii. persons, and the trueth is that those xii. were harnessed: or if the Enditement be of a riotous assault only, and the Riotters did both make an assault, and did beate & wound: in these, and the like cases, the Certificat may well be made so, as the omission in the Enquirie shall bee supplied by it. Marr. Howbeit, (he saith) that if they shal varie onely in the day, then the Enditement shall bee preferred. And if after the Enquirie, and before the Certificate, the Sherife die, or one of the Iustices be put out of the commission, no Certificat can then be made. Marr. But if the Riot were recorded by the Iustices, and Sherife, and the Riotters

Riotters doe escape, yet may that Iustice of the peace (so put out of the commission) ioyne with the other Iustice, and the Sherife in their Certificate of the same. Marrow.

These speculations of M. Marrowes reading, are like inough to fall in practise, and therfore I thought it not amisse to acquaint the reader before hand with them.

There remaineth yet, the last branch of the Statute (13.H.4.) that willeth the Iustices of Peace most nigh in euery Countie, to the place (where such Riot, or Route shall be) to do execution of this Statute, vnder the paine of 100. li. vpon euery of them for euery default. Upon which words, these notes may bee gathered: First, that no Iustice of the Peace dwelling out of the countie, (where the Riot is) can be charged, although bee bee the next vnto the place: Secondly, that if any other Iustices (that be not next vnto the place) shal execute the Statute, then that wil excuse those Iustices that be the next, because they all haue power by the first part of the Statute.

The peine of 100: li. vpon the Iustices.

And this is the cause for which I haue taken leaue to place these things before, vnder the authoritie of any two Iustices generally, although the statute doth specially (and that by a greater paine) bind them that be the next. Yea, al the Iustices of peace (within the commission of county) ought to supply the default of the next Iustices,

if

if they haue notice of such vnlawfull Assemblie, Rout, or Riot: for, so was it lately adiudged in the Starre chamber: howbeit that penaltie of 100. li. was there laide vpon the next Iustices only, and the residue were fined by the discretion of that Court, according to the exigencie and temper of their fault.

Thirdly, it is to bee gathered, that if one or two of the Iustices of the Peace, (that be next to the place) shal come to execute the Statute, and the Sherife, or Vndersherife, doe not come at all, yet those Iustices shall bee excused for their 100. li. And M. Marrow thinketh that in this last case, the Iustices be bound to sende for the Sherife or Vndersherife, and not they for the Iustices: and in the same case also it seemeth that the Iustices shall bee fined if they arrest not the Riotters, or doe not moreouer all that which without the Sherife or Vndersherife, they are by any way authorized to performe.

Lastly, that they shall doe execution of this Statute, that is to say, of all, and euery part thereof, respectiuely as to such Iustices, Sherife or Vndersherife, is thereby appointed. But whether they are to take notice of such Riots at their perill, or may safely expect the information thereof, I finde it both doubted and vndecided. *Collect.* Dyar. 110. 25.

Thus much of these things after this consideration: nowe to some precedents for the furtherance

therance of these Iustices in the execution, and then to our other matters.

The Precept to the *Sherife*, for enquirie vpon a Riot, *may beare this Forme.*

THomas Sondes miles, & W.C. *duo Iusticiariorum, &c. assignatorum, vicecomitie eiusdem comitatus, Salutem: Ex parte dicta dom. Reg. tibi præcipimus, quòd venire facias coram nobis apud I. in comitatu prædicto, 29. die Ianuarij proximè futuro 24. probos, sufficientes, & legales homines de comitatu prædicto, quorum quilibet habeat terras & tenementa, infra dictum com. liberi tenementi per chartam ad annuum valorem 20. solid. aut per copiam rotulorum Curiæ ad annuum valorem 26. solid. & 8. denariorum, aut per vtrunque, vltra omnes repriſas: ad inquirendum pro dicta Domina Regina ac pro indemnitate nostra in hac parte, super sacramentum suum de quibusdam illicitis aggregationibus & riottis apud C. in comitat. prædicto nuper commissis vt dicitur. Et hoc nullatenus omittas sub pœna 20. lib. quam incursurus es si in executione præmissorum defeceris. Et habeas ibi tunc nomina Iuratorum prædictorum, & hoc præceptum: Datum sub sigillis nostris, 20. die Ianuarij, Anno regni dicta domina nostra Eliz. &c.*

X. The

The entrie of the presentment (or Enquiry) may haue this forme.

Kanc. *INquisitio pro domina Regina, &c.* (as before in forcible entries) *coram* Thoma Sondes milite & W. C. *Qui ad hoc iurati & onerati, dicunt super sacramentum suum prædictum, quod D. E. F. G. & H. I. simul cum alijs malefactoribus, & pacis dictæ Dom. Reginæ perturbatoribus ignotis, ad numerum septem personarum, modo guerrino arraiat. vi & armis, viz. Hawberdis, gladijs, arcubus, & sagittis 20. die mensis Ianuarij, vlt. præterito, apud C. in comit. prædicto inter horas octauam & nonam, post meridiem eiusdem diei domum mansionalem A. B. de C. prædict. Yeoman, situatam in C. prædicta, riotosè fregerunt, & intrauerunt, & in ipsum A. B. tunc & ibidē insultum fecerunt, ac ipsum tunc & ibidem verberauerunt, vulnerauerunt, & indignis modis tractauerunt, ita quòd de vita eius desperabatur, in magnā pacis dictæ dominæ Reg. perturbationem & populi terrorem, ac contra formam Statuti de Riotis, Routis, & congregationibus gētium illicitis in parliamento dom. H. nuper Regis, Angl. 4. Anno regni sui 13. tento, editi & promis.*

And as for the Certificat (which ought to be made to the Queene, and the Counsel) that may be done in English, by way of a Letter, comprehending the trueth of the matter present, as the case shal require.

And

And here, let vs leaue these vnlawful Assemblies, Routs, and Riots, and addresse our stile to other statutes.

Any two Iustices of the Peace, (vpon complaint, that any seruant retained by the statute, departeth before the ende of his terme, or at the end thereof without a quarters warning, or that any person compellable by the statute to serue, doeth refuse to serue for the wages appointed) may examine the matter, and (finding such seruant, or person faultie) may cõmit him to ward, there to remaine, till he shalbe bound to the partie offended, to serue and continue according to the Statute: They also, may imprison for ten dayes, the master that giueth, and for xxi. dayes the seruaunt that taketh, more wages then after the rates thereof made: and may imprison for a whole yeare, such seruant as shall be conuicted before them (by his owne confession, or by the Oaths of two honest men) to haue made any assault vpon his master, maistresse, or other person hauing the charge of him, or of the worke: and they may appoint any woman (being vnmaried, of the age of twelue yeeres, and vnder fourtie) that is out of seruice, and that they shall thinke meete to serue, to bee retained by their discretion, and may vpon her refusall commit her to Ward, till she will be so bound to serue. 5. Eliz. cap. 4. Seruants and Labourers.

Any two Iustices of Peace, may licence

Beg for fees. Rogue. Seruingmen.

such as be deliuered out of Gaoles, to begge for their fees, or to trauell to their Countrey, or friends: and may giue licence for fourtie dayes to a Rogue, that is marked: and may make testimonial to a Seruingman, that is turned away from his master, or whose master is dead: 14. Eli. cap. 5: & 18. Eli. ca. 3. & 27. Eli. cap. 11.

Surcharged with poore.

Such two Iustices may certifie to the quarter Sessions, that a Citie, or Towne Corporate, of the Shire, (being no Countie of it selfe) is surcharged with poore, together with the names & number of them, that order may be taken there for their reliefe: and they may Licence diseased persons (liuing of almes) to trauel to Bathe, or to Buckstone, for remedie of their griefe. 14. El. cap. 5. & 27. Eliz. cap. 11.

Licence to go to *Bath*, or *Buckestone*.

Change a high way.

By the ouersight of any two Iustices and twelue discrete men of the Hundred, and Hundreds adioyning, any person (within the Weald of *Kent*) may make in his owne lande a newe high way, more commodious then the olde, 14. H. 8. cap. 6.

Appoint Ouerseers of Cloth.

Two such Iustices may once euery yeere appoint Ouerseers (for that whole yere following) of Cloth to be made or sold, in any Towne (not being Corporate) and may charge them vpon their oathes, to see execution of some parts of the Statute. 3. E. 6. cap. 2. yet in force.

Disturbe a Preacher.

Within fiue dayes (after accusation had, that any person hath disturbed a Preacher, and after his

his committing to safe custodie by one Iustice of the Peace) one other Iustice of that Shire must iome with him in the examination of the Offender, and may proceede to finde him guiltie by his owne confession, or by two witnesses, and thereupon commit him to the next Gaole, for three moneths. 1. Mar. Par. 1. cap. 2. Aske of the continuance of this Statute, as before.

Any two Iustices of the Peace of the Countie, where any Logwood (*aliàs* Blockwood) shall bee founde, in whose handes soeuer, may openly burne the same, as forfeited. 23. Eliz. cap. 9. Logwood.

Any two Iustices of the Peace of the countie (where any of her Maiesties subiects (not being a Iesuite, Seminarie priest, or other Priest, religious, or ecclesiasticall person, &c.) nowe being, or which hereafter shal be of, or brought vp in, any colledge of Iesuites, or Seminaries, shall arriue within fiue moneths next after proclamation to bee made in that behalfe in the Citie of London vnder the great Seale of Englande) may within two dayes next after such returne, receiue his submission, vnder the oath set foorth by Act in the first yeare of her Maiesties reigne. 27. Eliz. cap. 2. Iesuites, and Seminaries Colledge.

If any person, that ought to be set to the subsidie, do by his craft or couine escape the Taxation, and that be proued before two Iustices of Peace of that Countie: then shal he be charged Subsidie.

at the double value of so much as hee ought to haue beene taxed at, and shall further bee punished at the discretions of the saide Iustices 31. *El. Reg.* and diuers former acts of Subsidies.

What things, some two Iustices of the Peace may doe out of the *Sessions*: and therein of Bailement.

Cap. 11.

IT falleth out many times, that the Statute lawes regarding some Iustices aboue others, either for the opinion of the abilitie or learning that they should haue (being of the *Quorum*) or for the aduantage and facilitie that they haue to dispatch the affaire by meanes of their neareneſſe & dwelling, or for the indifferencie that they are likely to vse in the handling of the cause (as being neither of kindred, nor alliance to any of the parties) doe many times make choise of some two Iustices: and doe either altogether close the hands of the rest, or els do chiefly repose the trust in these that be so chosen and elected.

Bailement. Amongst those of this kinde, the Statute for Bailement of prisoners woorthily craueth the first place, whether you respect the weight of the matter that it concerneth, or the length of the discourse that it requireth, the one tending to di-

rect

ſured libertie, and the other comprehending much varietie.

This ſauing then (or deliuerie) of a perſon out of priſon, before he hath ſatiſfied the Law, is vttered by three termes in our Statutes, that is to ſay, Bailement, Mainpriſe (or manucaption) and Repleuine. And they bee indifferently vſed to expreſſe that ſuertie which the priſoner is to finde in ſuch a caſe. For, that which Bracton and the Statute of W.1.ca.15. (made 3. Edw.1.) doe ſpeake, of ſetting at liberty of Acceſſories by the wordes *Replegiari*, and of letting out by ſufficient Pleuin, Britton and the Regiſter doe expreſſe by finding of Mainpriſe: the Statute 5. Edw.3.ca.8. by letting to Baile: that of Marlebridge cap.27. (made 52.Hen.3.) by *tradi in ballium vel replegiari*. And the Statute of 2.Ed. 3.cap.9. making mention of the writ *De homine Replegiando* to be directed to the garde in of a Foreſt, declareth the effect thereof to be, that he ſhoulde Repleuy the priſoner by good Mainpriſe. The Statute 23.H.6.cap.10. that commaundeth the Sherife to let out of priſon (ſuch as he hath arreſted vpon Enditements of Treſpaſſe) vppon reaſonable ſuertie of ſufficient perſons, calleth the ſame a letting to Baile or Mainpriſe. And laſtly, 1.& 2.Phil. & Ma. cap. 13. ſeemeth to make all the three wordes *ſynonyma*, and of the ſame ſignification.

Difference betweene *Bailement*, *Mainpriſe*, and *Repleuine*.

Neuertheleſſe, it ſeemeth, that Repleuin had Repleuine.

his originall of the word Pledges, which deno-teth them that vndertake for the partie, that hee shal abide to be iustified by law; And it is vsed in diuers other cases, as in Repleuine of cattel vp-on a distresse, Repleuine of Franchises in a *quo Warranto*, Repleuine of Lande vpon a *Grand Cape*, in olde time, and Repleuying of the per-son of a man in the case of Villenage.

Bailement. Bailement, is deriued from the French terme Bailler: And that also commeth of the Greeke (Βάλλειν) they both signifying, to Deliuer into hand. For, hee that is Bailed, is taken (or kept) out of prison, and deliuered (as it were) into the hands of his friends, as Suerties for him, whereof also the word *Manucaptio* (or Main-prise, which is all one) giueth good euidence: the one mentioning the deliuerie, the other the re-ceiuing of such a prisoner. And in this respect, the booke of the *Norman Customes* calleth Bail-ment, a liue prison: for that the partie thereby becommeth prisoner to his friends, that doe vn-dertake for him.

Mainprise. But Bailement and Mainprise haue bene ta-ken to differ in the practise of our Common law: for hee which is properly Bailed by the Iusti-ces of any Court, hath bene neuertheless repu-ted to be a prisoner there still, and his suerties to be (as it were) his special gardeins: otherwise it hath bene thought of him that is let to Main-prise, as may bee seene by the Booke cases,

33. Edw.

33.Edw.3: & 36.E.3.*Corone* Fitzh.12.& 13: 7.Hen.6.42:31. Hen.6.10:38.H.6.23:9. E.4. 2:& 21.H.7. 33. But at this day, how long he shall be adiudged to be a prisoner, *Et in Custodia Mariscalli Mariscalcie, &c.* that is Bailed in the Kings Bench, the custome of the Court it selfe must rule the matter: for it differeth somewhat (if I be not deceiued) from those opinions.

Howbeit, forasmuch as in our course (concerning Iustices of the Peace) it is not so needefull to stay vpon the difference betweene the words, as to proceede to disclose the vse and manner of the thing: Let vs examine the power of the Iustices of Peace in this behalfe.

It seemeth, that Iustices of the Peace might (after the Statute 34.Ed.3,cap.1. that made them complete Iudges) haue letten to bayle such persons as were indited of Felonie before them in their Sessions, euen as the Iustices of the Kings Bench vse to doe: but not such as were arrested for suspicion of Felonie, and not endited thereof before them, because before the enditement they were no Iudges ouer them. And for helpe herein, it was ordayned (1.R.3. cap.3.) that euery Iustice of Peace might let to Bayle any suspects of Felonie. But that Lawe begate some inconueniences, and therefore it was soone after repealed (by 3. Hen.7.) which left power to two Iustices of the Peace (the

(the one being of the *Quorum*) to let any prisoners (mainpernable by the law) to baile to the next generall Sessions, or the next Gaole deliuerie: and willeth that they shall then certifie such baile taken vpon paine to forfeit for euery default (therupon recorded) ten pounds to the king, 3. H. 7. ca. 3. And here againe there sprang vp another inconuenience: for then Iustices of Peace woulde not sticke to borow one an others name, (as many yet still doe) and by that meanes defraud the good meaning of the statute: Whereupon it was lastly further prouided (by 1. & 2. Ph. & M.) as followeth:

Baile ment of prisoners, and examination before they be bailed.

That no Iustice, nor Iustices of Peace shoulde let to baile any person contrary to the sayd Statute of *West.* 1. cap. 15. And that no person, being arrested for Manslaughter, or Felonie, or for suspicion of eyther of them, (being baileable by the Law) should bee bailed, by any Iustice of Peace, if it bee not in open Sessions, or by two Iustices of the Peace at the least (the one of them being of the *Quorum*) and the same Iustices to bee present together at the time of the sayde Bailement: and that they shall certifie (in writing, subscribed, or signed, with their owne hands) the sayde Bailement or Mainprise, at the next generall Gaole deliuerie, to be holden within that Shire, where that person shal be arrested, or suspected: And that the sayde Iustices,

Iuſtices, or one of them, (being of the *Quorum*,) when ſuch priſoner is brought before them for Manſlaughter or Felonie, ſhall before any bailement) take the examination of that priſoner, & the information of them that bring him, of the fact and circumſtances thereof: and the ſame, or ſo much thereof, as ſhall bee materiall to prooue the Felonie, ſhall put in writing before they make that bailement; which examination and bailement the ſayde Iuſtices ſhall certifie at the next Gaole deliuerie within the limits of their Commiſſion: And the ſayde Iuſtices ſhall haue authoritie by this Acte, to bind all ſuch by Recognuſance (or Obligation) as do declare any thing materiall to prooue the ſayde Murder, or Manſlaughter, offences, or Felonies, or to bee Acceſſorie or Acceſſories to the ſame, as is aforeſayd, to appeare at the ſayde next Gaole deliuerie, where the triall thereof ſhal be, then and there to giue euidence againſt the partie, at the time of his triall: and ſhal certifie all and euery ſuch bond, in like maner, as is aboueſaid of the Bailement and examination, 1. & 2. Ph. & Mar. cap. 13.

This ſtatute of Bailement I haue purpoſely recited at large, becauſe it both comprehendeth ſome ſuch other things as muſt concurre with the Bailement of the priſoner, and prouoketh mee to ſet downe the Statute of W. 1: and

and to shew what persons are baileable by the Lawe: for, to eyther of these it referreth it selfe (as you haue seene) and is also restrayned by them.

Persons bailable, and not.

Now, by the Statute of W. 1. cap. 15. Prisoners that be before outlawed, or haue abiured: prouours: felons taken with the maner: those that haue broken the Kings prison: notorious and proclaymed theeues: those that are appealed of prouours, so long as the prouours be liuing (if they be not of good fame:) those which are taken for felonious burnings, or for falsifying the Kings money, or his seale: or which are taken vpon excommunication, or for open euill, or for treason touching the King himselfe, or for the death of a man, or by the commaundement of the King himselfe, or of his priuie Counsell, or by the (absolute, and not ordinarie) commaundement of the kings Iustices, or for the Forest: bee not repleuisable by the common Writ, nor without Writ, by Shirifes, nor other gardeins of prisons, But he that is taken for light suspicion: or is indited of *petite Larcenie*, (not being guiltie before of other *Larcenie*: those that be charged with the receite of theeues, or felons, or of commaunding, or force, or ayde: or charged with Trespasse, that toucheth not losse of life, nor member: and hee that is appealed by a Prouour (being no common theefe, nor defamed)

med) after the death of the Prouour, is baileable by that Statute.

Againe, the Statute 23.H.6.cap.10. prohibiteth thoſe that bee in priſon by condemnation, execution, *Capias vtlagatum*, excommunication: for Suertie of the Peace: or by ſpeciall commandement of any Iuſtice, to be bailed, by Shirife, Keeper of priſon, or other Officer or Miniſter: But willeth and commandeth, that all thoſe that bee *Arreſted* by force of any Writ, Bill, or Warrant, in any action Perſonall, or becauſe of any enditement of *Treſpaſſe*, be let out of priſon vpon reaſonable ſuerties of ſufficient perſons hauing ſufficient within the Counties where they be, to bee let to Baile or Mainpriſe, to keepe their dayes in ſuch places as the ſayd Writs, Bils, or Warrants ſhall require.

Both theſe laſt Statutes (as appeareth) were at the firſt made to giue a rule vnto Shirifes and other officers, as well for the letting to baile, as for the retayning of their priſoners. But as the Statute of W.1. is by the expreſſe letter of 1.& 2. of Phil.& Mar. ſet foorth as a line whereby the Iuſtices of Peace are to guide themſelues: ſo it ſeemeth to me, that they ought to haue an eye vnto the other Statute alſo: forasmuch as certayne other perſons bee therein alſo mentioned not to bee Bailable by law, and ſo within the reach of the very wordes that lie

in

in the Statute of Philip and Mary.

Baile for Manslaughter

And first, this statute (1. & 2. Phil. & Mar.) seemeth to distinguish these words (Death of a man) that are read in the statute of *Westminst.* the first, and in this place to restraine them, to Murder onely: seeing that it admitteth, that (for some death, or Manslaughter) the slayer may be lawfully bailed: which also is the common practise in that behalfe.

We learn also, that he which (within the yere) is acquited of Murder, or Manslaughter, at the Queenes sute, must be remitted to prison, or let to mainprise, till the ende of the yeere: and the partie grieued may in the meane time commence his appeale, 3. H. 7. cap. 1.

It seemeth moreouer, that he which is endited of Felonie, is not baileable. *Lib.* Ass. 41. pl. 30: nor he which confesseth the Felonie, whereof he is accused: for, that Statute (West. 1.) meaneth to exclude the one, when it saith, that he which is endited of Petite larcenie may be bailed: and the other, when it denieth Baile to a Prouour, who must beginne with confession of his owne fault, before hee may bee admitted to burthen another man.

And if a man bee taken vpon Processe of rebellion, issuing out of the Chancerie, or Starre-chamber, those Iustices of Peace may well bee thought voyd of discretion, that shall take vpon them to baile him.

Further,

Further, me thinketh that I may set downe this as a rule (euen at the common law) concerning Bailementes. That the Iustices of the Peace cannot meddle with the Bailement of any prisoner, except hee bee prisoner for such a cause, whereof the Iustices of Peace be competent Iudges: which also was the cause, that one Iustice of the Peace could not by force of the Commission onely, haue bayled suspects of Felonie, before that they were endited thereof as I haue told you. For, out of their Sessions, and before inditement, they were no iudges of such a matter.

And on the other side, it seemeth that two Iustices of the Peace (the one of them being of the *Quorum*) may out of the Sessions baile such as come into prison by the processe of the Sessions made vpon penall lawes, not forbidding Baile: because two such Iustices be competent Iudges of all those matters, insomuch as they may heare and determine them.

Sundrie doubts (I confesse) may be made concerning the businesse of Baile, which I am not able to dissolue, & therfore am not much willing to moue. Onely this I wil say for al, that it becommeth Iustices of the Peace to bee very circumspect in granting Baile, both for feare of wrong by denying it to him that is repleuisable, and for feare of danger to the seruice it selfe by giuing it where it is not grantable. Aduise, concerning bailement.

And

And therefore I aduise them, to consider, first, whether the power of Baile (when it is required) bee not taken from them by some of those former recited Statutes: and then, whether that particular Statute it selfe (against which the prisoner is charged to offend) doe not specially prohibite the Baile: for you shal meete with many statutes, which do not onely take baile from the offenders thereof, vpon their solemne conuiction after Iudgement, but also vpon the Record of some one or two Iustices of the Peace, or by examination, or proofe by witnesses, or such other priuate triall had before them.

For example, take a fewe of each kind, seeing it woulde prooue troublesome to repor them all.

Liueries. 1 He that is conuicted before the Iustices of the Peace, vpon the statute of Liueries, shall be committed to prison for one whole yeere without Baile or Mainprise. 8.H.6.cap.4.

Licence to transport. 2 He that is conuicted before them, for abusing a licence of transporting victuall, shall likewise be committed by them, and shall remaine there a whole yeere without Baile, or Mainprise. 1.& 2.Phil.& Mar.cap.5.

Forestalling. 3 He that is conuicted before them for offending the statute made against forestalling, &c. shall bee committed to the Gaole for two moneths without Baile or Mainprise. 5.E.6.c.4.

4 And hee that is conuicted before them for offence

offence against the statute of Musters, shall be awarded to remaine in prison without Baile or Mainprise, till he haue paid the forfaiture, 4. & 5. Phil. & Mar. cap. 3. Musters.

1 Againe, if any one Iustice of the Peace shall find, or knowe, any to haue exercised any vnlawfull games, hee may commit him without Baile or Mainprise, till hee will become bound no more to vse vnlawfull games. 33. H. 8. cap. 9. Games.

2 So, hee that is conuicted before two Iustices of the Peace to haue refused to serue for such wages as is by order appointed, shall remaine in prison without Baile or Mainprise, till he will be bound to serue accordingly, 5. Eli. cap. 4. and the like is, of some other pointes in that statute. Seruant.

3 He that is committed by two Iustices of the Peace, for keeping a common Alehouse, of his owne authoritie, shall remaine in prison three dayes, &c. without Baile or Mainprise. 6. Ed. 6. cap. 25. Alehouse.

4 And the reputed father or mother of a Bastard childe, that will not performe the order set downe by two Iustices of the Peace thereto authorized, shall be committed, and shall remaine in prison without baile or mainprise, till he or she will be bound, &c. 18. Eli. cap. 3. & 27. El. cap. 11. Bastarde.

The most of the rest shall onely bee poynted

out, that the Iustices may in a sort be warned of them, thus shortly.

Prophecies.	5. *Eliz.* cap. 15. touching *Prophecies.*
Witchcraft.	5. *Eliz.* cap. 16. concerning *Witchcraft.*
Periurie.	5. *Eliz.* cap. 14. of *Periurie.*
Seruice.	1. *Eliz.* cap. 2. touching *Common prayer.*
Shoolemast.	23. *Eliz.* cap. 1. touching *Schoolemasters.*
Preachers.	1. *Mar.* cap. 3. of *disturbing Preachers.*
Tithes.	27. *Hen.* 8. cap. 20: & 32. *Hen.* 8. cap. 7: of *Tithes.*
Poore.	14. *Eliz.* ca. 15. of *Collectors* for the *poore.*
Souldiours.	2. *Edw.* 6. cap. 2. of *Souldiours* selling harneſſe.
Bridges.	22. *Hen.* 8. cap. 5. of *Collectors* for *Bridges.*
Bowes.	33. *Hen.* 8. cap. 9. of *Aliens,* conueying *long Bowes.*
Apparell.	1. & 2. *Phil.* & *Mar.* cap. 2. of *wearing ſilke.*
Sheepe.	8. *Eliz.* cap. 3. of *trasporting Sheepe.*
Hawkes, &c.	5. *Elizab.* cap. 21. of taking *Fiſhe, Deere Hawkes.*
Fleſh.	5. *Eliz.* cap. 5. of *eating Fleſh.*
Weights.	9. *Hen.* 5. cap. 8. Parl. 2. of *Falſe weights.*
Beggers.	14. *Eliz.* cap. 5. of *Vagabonds.*
Aſſemblies.	1. *Mar.* cap. 12. & 1. *Eliz.* ca. 16. of *Rebellious Aſſemblies.*
Riots.	2. *Hen.* 5. cap. 8. of great *Riots.*
Gaole mony.	23. *Hen.* 8. 2. of *Collectors* of *Gaole* money.
Poore.	18. *Eliz.* cap. 3. of *Gouernors* of the poore, and of houſes of *Correction.*

5. *Rich.* 2. cap. 2. of *Forcible* holding. } Force.
13. *Eliz.* cap. 21. of *Purueiance* neere to the *Vniuersities*: and 23. *Hen.* 6. cap. 14. of *Purueiors* of noble men. } Purueiors.
1. & 2. *Phil.* & *Mar.* ca. 5. of *carying Corne.* } Corne.

And so, if there be any other fewe, wherein Iustices of the Peace may not graunt Baile, though otherwise they haue to deale: for such as be not of that sort, I doe willingly pretermit them.

Now, for an end of Bailement, I will shewe you one forme of a Baile, and another of the Liberate.

Kanc. The Baile.

MEmorandum, quod 20. die mensis Iulij, Anno regni domine nostre Eliz. &c. Venerunt coram nobis R. B. & W. L. duobus Iusticiariorum, &c. assignatorum, apud H. in comitatu predict. A. B. & C. D. de E. in dicto comitatu, Yeomen, & ceperunt in Ballium, vsque ad proximam gaole deliberationem in dicto comitatu tenendam, quendam F. G. &c. Labourer, captum, & detentum in prisona pro suspicione cuiusdam Felonie, &c. Et assumpserunt super se, scilicet quilibet predict. A. B. & C. D. sub pœna 20. lib. bone & legalis monete Anglie, & predict. F. G. assumpsit pro seipso sub pœna 40. lib. similis monete de bonis & catallis, terris & tenementis eorum, quorumlibet, & cuiuslibet eorum, ad opus dicte

dom. Reg. Heredum, & ſucceſſorum ſuorum leuandarum, ſi prefatus F. G. *ad eandem proximam Gaolæ deliberationẽ perſonaliter non comparebit coram Iuſticiarijs dictæ domine Regine ad dictam Gaolam deliberandam aſſignatis, ad ſtandum recto de Felonia prædicta, & ad reſpondendum dict. dom. Regine tunc & ibidem de & ſuper omnibus quæ illi obijcientur. Datum ſub ſigillis noſtris, die & anno ſupradictis.*

The Liberate.

RO. B. and W. L. two of the Iuſtices of &c. To the keeper of her Maieſties gaole in *Maidſtone*, &c. greeting: Foraſmuch as F. G. &c. labourer, hath before vs found ſufficient mainpriſe to appeare before the Iuſtices of gaole deliuery at the next general gaole deliuery to be holden in the ſayd County, there to anſwere to ſuch things as ſhalbe then on the behalf of our ſaid ſoueraigne Lady obiected againſt him, & namely to the felonious taking of two ſheepe (for the ſuſpicion wherof he was taken, and committed to your ſaid Gaole) we command you on the behalf of our ſaid Soueraign Lady, that (if the ſaid F. G. do remaine in your ſaid gaole for the ſaid cauſe, and for none other) then you forbeare to grieue or detayne him any longer, but that you deliuer him thence, and ſuffer him to go at large, and that vpon the paine that wil fall thereon. Yeouen vnder our Seales, this 20. day of Iuly, &c.

The

The authoritie of ſome two Iuſtices of the peace goeth yet further: For two Iuſtices of the Peace (the one being of the *Quorum*) may prohibite and remooue common Ale-ſelling, and may alſo allow the ſame, taking bond with ſuertie by Recognuſance for good rule to bee kept in ſuch Ale-houſe, &c. by their diſcretion. And they may alſo commit and impriſon (for 3. dayes) thoſe that keepe common ale-ſelling of their owne heads, againſt prohibition, or without allowance thereof, and may after take Recognuſance of them with two ſuerties that they ſhall keepe none. 5. Ed. 6. cap. 25.

And here, ſeeing that the order of the conditions of theſe bonds is partly referred to diſcretion, I will (for the better brideling of theſe nurſeries of naughtineſſe) leaue with you that forme of them, which I haue knowen practiſed by that honourable Iuſticer, the lord William Cobham, lord Warden of the Fiue Ports, and one of her Maieſties priuie Counſell.

Alehouſes.

THE Condition of this Recognuſance is ſuch: whereas the withinbounden *A. B.* is admitted and allowed by the withinnamed Lorde *Cobham*, and *I. Leueſon* Knight, (two of the Queenes Maieſties Iuſtices of the Peace within the Countie of *Kent* within written) to keepe a cómon Alehouſe, or Tipling houſe, and to vſe common ſelling of Ale,

For, euery place is not meete.

or Beere, onelie within the nowe houſe of him the ſayd *A.B.* (and not elſewhere) ſituate in the *High ſtreete* of the Towne of *M.* within written, and called the ſigne of the Hart: If therefore, hee the ſayd *A. B.* during ſuch time as hee ſhall keepe ſuch common Alehouſe there, ſhall not ſuffer any vnlawful play, at the Tables, Dice, Cardes, Tenniſe, Bowles, Cloſh, Coites, Loggets, or other vnlawfull games to be vſed in his ſayd houſe or in his garden, orchard, or other his ground, or place: Nor dreſſe, or cauſe, or ſuffer to be dreſſed, any fleſh to bee eaten vpon any day forbidden by the lawes or Statutes of this realme of England: Nor wittingly and willingly admit, or receiue into his ſayd houſe, or any part thereof, any perſon notoriouſly defamed of, or for theft, incontinencie, or drunkenneſſe, or that ſhall bee before hand notified to him the ſayd A. B. by the Conſtable or Borſholder of M. aforeſayd, for the time being, or by the Deputie of eyther of them, to be an vnmeete perſon to bee receiued into a common Alehouſe: Nor keepe, or lodge there, any ſtraunge perſon (aboue the ſpace of one day & one night together) without notice thereof firſt giuen to the Conſtable or Borſholder, or the Deputie of the one of them, there: And finally, if he the ſaid A. B. during all the time that hee ſhall keepe common ſelling of Ale or Beere in the

ſayd

ſayd houſe, ſhall and will there vſe and maintaine good order and rule: then this preſent Recognuſance, &c. or elſe, &c.

In ſome ſhires, the Iuſtices of Peace do condeſcend vpon certaine articles, framed by their diſcretions, and generally to be propounded to all common Ale-ſellers, taking the bond for performance of the ſame Articles a copy whereof they doe vſually deliuer to euery of them: which maner is auowable alſo, though not ſo aſſured as the former.

Two Iuſtices of the Peace (ſo that the one be of the *Quorum*) may (by examination, or Enquirie) heare and determine the faultes of head Officers in Cities, Boroughs, and market Townes, that doe not twiſe yeerely view and examine Weights and Meaſures, and breake and burne the defectiue: as alſo the defaults of buiers and ſellers by other weightes and meaſures then they ought to doe: and may breake and burne the defectiue weightes and meaſures, and amerce and fine the offendors by their diſcretion, & make proceſſe againſt them, as if they were endited of Treſpaſſe againſt the Peace, 11. H. 7. ca. 4: & 12. H. 7. cap. 5. Weights and meaſures.

Two ſuch Iuſtices, may giue licence to Fencers, Bearewards, Common players in Enterludes, Minſtrels, Iuglers, Pedlers, Tinkers, and Petite-chapmen, to goe abroad, ſo as Pedlers, Tinkers, Fencers, Players, &c.

they shall not be taken as Rogues. 14. Eli. cap. 5. & 27. Eli. ca. 11.

Poore, Sute may bee commenced against a high Constable in the name of two of the next Iustices of the Peace to the place (if it be out of Citie, Borough, and Towne Corporate,) for not suing a negligent Collector of the money for the poore within the time limited by the statute: and they shal euery halfe yere take the account of such Collector, and may take order with the Surplusage of such collection, & may also commit him to prison, for refusing to account or to bring in his surplusage contrary to the statute, 14. Eli. ca. 5. & 27. El. cap. 11.

Oath of Vndershirife, Two Iustices of the Peace (the one being of the *Quorum*) may take the oath of the Vndershirife of their Countie (before that he meddle with the exercise of that office) as wel touching the Supremacie declared in the Act, 1. El, as touching his office, set fooreth 27. El. cap. 12. And the like may they doe, for the like oathes of Bailifes of Franchises, Deputies and Clarkes of Shirifes, and Undersheriffes, and of euery other person that shall take vpon him to entermeddle with the returning of Iurors, or with the execution of Processe in any Court of Record. 27. Eli. cap. 12.

Poore, Two Iustices of the Peace (the one being of the *Quorum*) may imprison such as doe refuse to giue towards the relieke of the poore, or

doe

doe discourage others to giue. And the Bishop, or his Chancellor, shall call the two Iustices of the Peace next inhabiting to any Hospitall to assist them in taking the account of such as haue had the collection of the reuenues and profits of such Hospitall: and they three may charge the accountant (vnder penaltie to lose such summe of money as they shall think meete) to account, and not to delay it, and foorthwith to employ the Surplusage to the vse of the Hospitall, 14. Eliz. cap. 5. & 27. Eliz. cap. 11. Hospitall.

Two Iustices of Peace (the one being of the *Quorum*) in, or next to the limites where the parish Church is, in which a Bastard child (left to the charge of the Parish) shal be borne, ought to take order by their discretion, as well for the releefe of the parish, and keeping of the child, as also for the punishment of the mother, and reputed father thereof, 18. Eliz. cap. 3. Bastard child.

Two Iustices of Peace (the one being of the *Quorum*) vpon complaint by any competent Iudge of Tithes, for any misdemeanor of the defendant in a sute of tithes, may cause him to bee attached, or committed to ward, til he find suertie vnto them by Recognusance to the Kings vse, to obey the Processe and Sentence of that Iudge, 27. H. 8. cap. 20. & 27. Eliz. cap. 11. Tithes.

And also vpon complaint in writing by an Ecclesiasticall Iudge that hath giuen definitiue sentence in case of Tithes against one (which wilfully

wilfully refuseth to pay the Tithes, or summes of money so adiudged) two such Iustices may cause the partie to bee attached, and committed, to the next Gaole, till hee finde such suertie (as is aforesaid) to performe that sentence. 32. H. 8. cap. 7.

Assesse the townes.

After execution had for the partie robbed against the men of the Hundred, and vpon complaint made by them so charged, two Iustices of the Peace (one being of the *Quorum*) of the same countie, inhabiting within the said Hundred, or neere vnto it where anie such execution shall bee had, may assesse and taxe, ratably and proportionably by their discretions, all and euery the townes, parishes, villages, & hamlets, as well of the saide Hundred, as of the Liberties within the same, towards an equall contribution to bee had for the releife of them against whom such execution was had. 27. Eli. Reg. cap. 13.

High wayes in the Weald.

Two Iustices of the Peace (the one being of the *Quorum*) which were present at the Sessions wherein any conuiction was had of the offences against the statute 27. Eli. made for the amendment of the high wayes in the Wealds of *Sussex*, *Surrey* and *Kent*, may make warrant for leuying the forfeitures thereof by distresse, to be taken by the Constables, Tithingmen, or other officers therein to be assigned. And in default of such distresse, or vpon refusall to pay such forfaiture, after a lawfull demaund by the officer, they

they may alſo giue order for leuying the double of that forfaiture, by ſuch wayes and meanes as to them ſhall be thought moſt meete. 27. Eli. Reg. cap. 19.

Two Iuſtices of Peace, dwelling next any Citie, or Towne, where any Retailer of woollen cloth ſhall preſent vnto them any defectiue cloth againſt this ſtatute (being conferred with the ſtatute. 4. & 5. Phil. & Mar. ca. 5.) ſhal cauſe the ſame to be cut into three equall parts, whereof the one to bee to the Queene, the other to the Preſentours, and the third to the Iuſtices themſelues, 5. Edw. 6. cap. 6. Cloth.

No Fiſherman ſhall bee taken to ſerue as a Mariner by the Queenes Commiſſion, but by the choyſe of two Iuſtices of the Peace adioyning to the place where hee is to bee taken. 5. Eliz. cap. 5. Fiſherman.

Two Iuſtices of the Peace (not being of kinred, alliance, counſell, or fee, to the Lorde or owner of a wood) appoynted by the more part of the Iuſtices of Peace at their Seſſions, vpon complaint of the Lorde made vnto them, may deuide and ſet out the fourth part of it, if the Lord and commoners thereof (being firſt called before them) cannot agree vpon it, 35. H. 8. ca. 17: & 13. El. cap. 25. Diuide the fourth part of a wood.

Two Iuſtices of the Peace, wherof the one to be of the *Quorum*, (appointed by the *Cuſtos Rotulorum*, or by the Eldeſt of the *Quorum* in his abſence) Amercements in the countie Court.

absence) are to ouersee, and controll, the Sherifs bookes and amercements, and the estreits of the said amercements, are to be made by Indenture betweene them and the sherife or vndersherife, and to bee sealed with their seales: And they may vpon suggestion make processe as in an action of Trespasse against the offendors of the statute to answere before them, 11. H. 7. cap. 15.

And heere also, is place for those priuate Acts, wherein any power is giuen to two Iustices of the Peace, as:

Norwich. 5. E. 6. ca. 24. For the making of Couerlets and Dornikes, in *Norwich*.

Wales. 35. H. 8. cap. 11. For wages of the Knights of *Parliament*.

Northumberland. 11. H. 7. cap. 9. For recognusances to be taken of Lessees in *Northumberland*.

Vniuersities. 2. & 3. Phil. & Mar. cap. 15: & 13. Eliz. cap. 21: & 27. Eliz. ca. 11. For prohibition of pur-ueiances, within fiue miles of either of the Vniuersities.

Kent, and Suffex. 14. Hen. 8. cap. 6: & 26. Hen. 8. cap. 7. For laying out new high wayes in Kent and Sussex.

Cardiffe. 23. Eliz. cap. 11. For the repairing of Cardiffe bridge.

What

What things, three, or moe, *Iustices* of the Peace may doe, out of the *Sessions.*

Cap. III.

THe authoritie as well of any two Iustices of the Peace generally, as of some certaine two Iustices specially, being thus at some length vnfolded, it remaineth, that (for an end) we speake somewhat of three, and the greater number.

Three Iustices of the Peace (one of them being of the *Quorum*) may discharge out of prison, any person committed thither for his offence in not declaring to a Iustice (within 24. houres) that he was moued to ioyne in any vnlawfull Assembly contrary to the statute. 1. Ma. 1. Parl. cap. 12: & 1. Eliz. cap. 17. Vnlawfull Assembly.

It is requisit, that the Certificat (that is to be made to the head Officer of a Citie or Towne Corporate, where a childe is to be put Apprentise to a Marchaunt, Mercer, Draper, Goldsmith, Ironmonger, Imbroderer, or Clothier, that the father or mother of such child may dispend fortie shillings freehold by yeare) be vnder the handes and seales of three Iustices of the Peace where the lands lie. 5. Eli. cap. 4. Certifie for an apprentise.

Three Iustices of the Peace (the one of them being of the *Quorum*) may with the Surplusage Rogues.

ſage of the collections and forfaitures, by their diſcretions ſettle the Rogues (borne, or abiding for the moſt part of three yeares, in that Shire) to worke, there to be holden to worke by ouerſeers, 14. Eli. cap. 5. & 27. Eli. cap. 11.

Money giuen to the poore, high wayes, or bridges.

The Biſhop and his Chancellor, and three ſuch Iuſtices of the Peace haue power to examine, how money or other reliefe (appointed by King Henry the eight, or any other, to the vſe of the Poore or of amending of Highwayes, or Bridges) is beſtowed, and to call to account the deteiners thereof, &c. 14. Eli. cap. 5. & 27. Eliz. cap. 11.

Depraue the Sacrament of the Lordes Supper.

It ſeemeth, that three ſuch Iuſtices of the Peace may out of the Seſſions take informatiõ and accuſation by the oathes of two honeſt perſons, againſt ſuch as ſhall deprаue the Sacrament of the body and blood of our Lord and Sauiour Ieſus Chriſt, againſt the ſtatute: and examine them, what other witneſſes were then by: and to bind them all by Recognuſance, to giue in euidence at the day of trial, 1. E. 6. c. 1. but enquire of this matter.

Foure Iuſtices.

Foure Iuſtices of the Peace (whereof one to be of the *Quorum*) may (where a decaied bridge is, and where it cannot be proued who, or what lands, be chargeable to the repairing thereof) take the inhabitants, make collectors, & appoint ouerſeers, for the amendment of the ſame, &c. 22. H. 8. cap. 5.

Bridges.

Sixe

Sixe Iustices of the Peace, may in sundrie shires take order for common Gaoles, whereof the Sherife shal haue the custody, & to the which murderers and felons, &c. shalbe sent: and may do and performe diuers incidents thereto by the statutes, 23.H.8.cap.2.& 13.Eli.ca.25. Sixe Iustices. Gaole.

Sixe Iustices of the Peace (two of them being of the *Quorum*) may for a whole yere after the expiration of any Commission of Sewers, execute the lawes of the Commissioners of Sewers, vnlesse that a newe Commission of Sewers be published within the yeare. 13.E.cap.9. Sewers.

To this Title also, doe these particular Statutes belong.

13.Eli.c.23:& 23.Eli.cap.12. For pauing the streete by *Algate*. Algate.

34.H.8.ca. For establishing *Iustices* of the Peace in Wales,&c. Wales.

27.H.8.cap.5. For *Iustices* of the Peace in *Chesbire*,&c. Cheshire.

23.H.8.c.2: & 5.Eli.c.24: & 13.Eli.ca.25. For the appointing and building of Gaoles, in sundry shires. Gaoles.

18. Eli. cap. 20. For amending of Bridges within fiue miles of *Oxford*. Oxford.

18.El.c.10,& 27.El.c.26. For the reparation of the Ferry, called the Kings Ferry in the Isle of Shepey in *Kent*. Shepey.

27.Eli.c.22. For *Chichester* hauen.

Of

Of the reward, and punishment, of *Iustices* of the Peace, for things done, *not done, or misdone, out of the Sessions* of the Peace.

Cap. IIII.

OF Reward, & Punishment (as said Solon) all Common weales do consist: for as the care of equitie and Iustice waxeth colde, vnlesse there bee Reward readie for Vertue: So the negligence of euill men must needes be corrected by seueritie and chastisement of paines. And therefore, albeit the meaning of our Parliaments hath always bene, that choise should bee made of such persons for this Office of the Peace, as needed

Reward. no reward for their trauell in that behalfe: yet, to the end that they should with the more alacritie and cheerfulnesse proceede in their affaires, the lawes doe nowe and then call them a trifle, rather to let them knowe that they doe beholde their well doing, then that themselues do stand in neede of any recompence.

Seruants. Hereupon, euery Iustice of Peace, (sitting in execution of the Statute of Labourers and seruants) shal haue v.s. the day (for three dayes together) out of the forfeitures that growe by the same statute, 5. Eli. cap. 4.

And if any Person (commanded by two Iustices

stices of Peace, to appeare to be made an ouer- Ouerseers. Cloth.
seer to see the statute of Cloth making kept) do without reasonable excuse refuse to come, and to take vpon him that office, he is to forfeit for euery such refusall fortie shillings: and thereof those Iustices are appointed to haue the one half by the statute, 3. Edw. 6. cap. 2.

Those two Iustices of the Peace also next ad- Faulty Cloth.
ioyning, to whom any Cloth (faulty against the statutes) shall bee presented, may cut the same into three equall pieces, and shal haue to themselues the one of the same, by the Act. 5. Edw. 6. cap. 6: & 4. & 5. Phil. & Mar. cap. 5.

And euery Iustice of the Peace is allowed Egyptians.
to retaine to his owne vse, the one moitie of all strangers goods, calling themselues Egyptians, that he shal lawfully seise, by vertue of the statute, 22. H. 8. cap. 10.

The Iustice or Iustices of the Peace, that doe Inrolment of bargaine and sale.
ioyne with the Clarke of the Peace, in taking the Conusance of an Indenture of bargain and sale of land to be Inrolled, shal haue xii. d. therefore, if the land exceed not in value xl. s. by the yeare, and ii. s. vi. d. if it doe exceed that value by the statute, 27. H. 8. c. 16.

The Queenes highnesse shall beare the costs Riot.
that the Iustices of Peace shall sustaine in the execution of the statute, 13. H. 4. c. 7. of Riots, &c. 2. H. 5. cap. 8.

And the Iustices of the Peace shall make exe-

Forcible entrie.

cution of the statute of Forcible Entries at the costes and charges of the partie grieued. 8.H. 6.cap.9.

Alehouse.

Twelue pence is giuen to the two Iustices of peace for taking euery Recognusance of him that is allowed to keepe a common Alehouse, by the statute, 5.E.6.cap.25.

Punishment.

On the other side also, the statutes doe nowe and then correct the dulnesse of these Iustices, with some strokes of the rodde, or spurre. And therfore generally, if a Iustice of Peace wil not giue remedie to a partie grieued in any thing that he may heare, determine, or execute: then vpon complaint to the Iustices of Assise, or to the lord Chancellor, he shal not onely be put out of the commission by the lord Chancellor, but shal also be punished according to his demerites: 4. H.7.cap.12: And particularly, euen at the first it was ordeined, that if the Wardens of the Peace did not looke vnto the execution of the statute against such as should ride or goe armed in any place, putting the Countrey in feare, then the Iustices assigned by the King should enquire of their default, and punish them, Stat. North 2. Ed.3.cap.3.

Ride armed.

Riots.

The statute of Riots &c. (13.H.4.cap.7.) laieth 100. li. forfeiture vpon those Iustices of Peace that shal dwel nigheſt to the Riot, &c. if they doe not put that statute in execution.

And those Iustices of the Peace, and Sherife, or

or Vndersherife, which in sending their Certificate to the Queene and her Counsel, (concerning such Riot) doe not withall Certifie the names of the maintainers and imbracers in that behalf, with their misdemeanors that they know shal euery of them forfait twentie pounds, vnlesse they haue reasonable excuse for not certifying the same. 19. H. 7. cap. 13. Certificat.

That Iustice of the Peace which seiseth the goods of any Egyptians, and doeth not incontinently restore such part thereof as shalbe proued before him, to haue beene craftily or feloniously taken, shal forfait the double thereof to such prouer. 22. H. 8. ca. 10. Egyptians.

If any Iustice of the peace shal take any bond (made for cause touching the King) in the name of the Iustice himself, and not by the words, *Domino Regi*, he shalbe imprisoned for so doing, 33 H. 8. cap. 39. Bond.

That Iustice of peace which doth not (after request therof made) giue attendance vpon the Q. Lieutenant of the Shire, for the suppressiō of any Rebellion, or vnlawfull assembly, shall suffer a yeres imprisonment, vnles there be cause of reasonable excuse. 1. M. Parl. 1. c. 12: & 1. Eli. c. 17. Rebellious assemblie.

If any Iustice of Peace shall be proued to be in default about the execution of the Act of the Poore, by two sufficient witnesses before the Iustices of Assise, at their next generall Gaole deliuerie, he shall loose v. li. 14. El. cap. 5. Poore.

Gunnes and Croſſebowes.

That next Iuſtice of Peace which faileth in preſenting the name of him that preſenteth it to him, according to the Statute of ſhooting in Croſſebowes, or Gunnes, ſhall forfeite xx. ſhillings. 2.E.6.ca.14. But enquire of the continuance of this, as before in the 7. Chapter of the ſecond Booke.

Agnus Dei.

That Iuſtice of Peace, which doeth not (within fourteene dayes, after matter vttered to him concerning any *Agnus Dei, &c.*) ſignifie the ſame to ſome one of the Queenes priuie Counſell, ſhall incurre the paines of the Act, 16. R. 2. of *Premunire*: 13. Eli. cap. 2. And

Ieſuites.

that Iuſtice of the Peace, which after diſcouerie made vnto him by any perſon, that any Ieſuite, Seminarie, or whatſoeuer other eccleſiaſticall or religious perſon (profeſſed by any authoritie from the See of Rome) is abiding within anie the Queenes dominions, ſhall not within 28. dayes then next following, giue information thereof to ſome of the Queenes priuy counſell, or to one of the Preſidents, in Wales, or in the North, ſhall forfeite for euery ſuch offence, 200. marks, 27. El. cap. 2.

Certifie into the Eſchequer.

That Iuſtice of the Peace which (hauing taken any examination concerning Plaints in the Sherifes Court) doeth not certifie the ſame into the Eſchequer within one quarter of a yere after, ſhall looſe fourtie ſhillings for his default, 11. H. 7. cap. 15.

Thoſe

Those Iustices of the Peace, which doe graunt any baile contrary to the law, or do not certifie the Baile and examination of the Felonie, according to these statutes, shall pay such Fine, as the Iustice of Gaole deliuery shal think meete, 1. & 2. Phil. & Mar. cap. 13: & 2. & 3. Phil. & Mar. cap. 10. Baile and certifie.

Euery Iustice of Peace, that (dwelling within seuen miles of *London*) doeth not (vpon request) assist the Colledge of Phisitions of *London* in the execution of the statute, 32. H. 8. ca. 8. shall be punished, as one that runneth in contempt of the Queene, 1. Mar. cap. 9. Phisition.

And how that Iustice of the Peace shalbe punished, that shall take vpon him the office, not hauing yearely twentie pounds in landes, it hath appeared already, cap. 6. in the first Booke. Not twentie pounds in lands.

The Epilogue.

THus much (so shortly as I coulde) I thought fit to say, concerning the authoritie of *Iustices* of the Peace, without the *Sessions:* wherein I haue rather sought to admonish them (by a sleight view and rehearsall of the most part) what things they haue to handle, then laboured to accomplish them (with full skill) howe to administer, and execute them all. The Epilogue.

Neither doeth that skill and knowledge

lie in my power, but in their owne diligence: and muſt therefore be wonne by a continuall ſtudie and painfull meditation of the Statutes at large: towards their helpe and furtherance wherein, I haue intreated a godly and learned Gentleman (Maſter *Iohn Tindall*, of *Lincolnes Inne*) to take the paynes to cull out all thoſe Statutes by themſelues, which are nowe in force, and wherewithall *Iuſtices* of the Peace haue to meddle: not altogether beheading them of their preambles: Nor any whit curtailing them of their wordes: Nor otherwiſe diſmembring them, or ſcattering their partes in ſunder: But laying foorth the bodies of them, whole, and at large, vnder their proper *Titles*: together with the materiall partes of their preambles: and not without anie of their prouiſoes: Therewithall amending the corruptions of the Engliſh tranſlation out of the Latine and French: and finally adding vnto them (where neede is) ſome notes of helpfull direction: which thinges no other man (that I knowe) hath hitherto aſſayed, All which is ſo marked out in Maſter *Raſtals* Abridgement, as euery man (that will) may eaſily enioy the benefite. And I doubt not, but that for the abſolute accompliſhment of ſo ſeruiceable a woorke, God will heereafter giue him both minde and meanes, to conferre and rectifie the whole volume of thoſe im-

printed

printed Lawes, according to the Original and Autentique Records: then the which I know not anie labour, either more auaileable to the Students of the Lawe, or more neccſſarie for ſuch as haue any charge therof in the adminiſtration of the commonwealth.

The fourth Booke intreating of *the* Seſsions *of the Peace, and* of things incident or belonging *thereunto.*

THE PROHEME.

IT may peraduenture ſeeme, that hauing already ſtood lõg in matters that were of the leſſe importaunce, and ſuch as might be diſpatched at home *ſine ſtrepitu*, I wil be now both long and tedious, when I begin with thoſe of greater weight, and which doe require the ſolemne *Bench*.

But, as at the firſt I thought it meete to helpe moſt, where moſt nee de was: I meane, where one or two *Iuſtices* (preſſed with the neceſſitie of time, and deſtitute of the aſſiſtance of their learned companions) were to adminiſter their office at home: So now, knowing that at the *Seſſions* of the Peace, there

be commonly manie *Iuſtices* in number, and amongeſt them ſundry ſo well inſtructed in lawe, as in beeing too buſie with that which belongeth thereto, I ſhal as the ſaying is, but *ſet a Candle in the Sunne-ſhine*, and rather bewray want in my ſelfe, then bring helpe or light vnto them, I purpoſe to runne ouer this reſidue more ſwiftly, except it bee in a fewe places, where either the profite or neceſſitie, (or both) of the matters themſelues ſhall begge licence, and procure pardon for me.

THE

THE DESCRIPTION OF THE *SESSIONS* OF the Peace.

Cap. 1.

AS a man that hath receiued hurt in his body by a stroke whereof hee bleedeth freshly, will bee contented for the present to admit the helpe of any meane Leech, or Surgeon (comming next to hand) for the staunching of his blood, and binding vp of the wound: and yet would more gladly haue vsed the conference of diuers expert Surgeons for doing the same, if the danger of the hurt would haue graunted the time that will be lost in calling them together: So also the common counsell of this Realme, finding that the body thereof may be deepely wounded in some one member, and perceiuing that certaine euils must bee resisted at the very first, (least otherwise they grow past helpe, and ware incurable) hath many times thought it good to commit to one, or to a few Iustices of the Peace (for that they be ready, and at hand) the stopping of the blood (as it were) and first dressing of the wound,

wound, by repressing of force, and other outrages, that doe suddenly arise: and hath yet neuertheleſſe (when as the time and matter will permit) politikely eſtabliſhed an aſſemblie, and conference of all the Iuſtices at certaine times in a full court, and open Seſſion.

For it is true, that if the publique Peace ſhould not bee preſerued by taking of Suertie, before it be broken: If ſuch as doe violate the common tranquillity, ſhould not bee committed to priſon when they haue broken it: If ſeditious tale-berers (the ſowers of Rebellion) ſhoulde not be ſnapt vp and reſtrained: If finally riotous aſſemblies ſhould not bee diſperſed, and Forcible inuaſions withſtoode and remooued: the hurt body would bleed to death, and too late (and all in vaine) would it be to ſummon a Seſſion for remedie. But when the bridle is once caſt vpon the head of the Offender, then, and not before, is the matter ready for the Sitter.

The deſcription of a *Seſſion* of the Peace.

I will (for this time) call *a Seſſion of the Peace* An aſſemblie of any two (or moe) Iuſtices of the Peace (one of them being of the *Quorum*) at a certaine day (and place within the limits of their Commiſſion) appointed, to enquire by a Iury (or otherwiſe to take knowledge) and thereupon to proceede to heare and determine according to their power, of cauſes within their Commiſſion, and the Statutes referred to their charge.

And

And this description excludeth al meetings, that are onely for Enquirie: in so much as to enquire, and not to heare and determine, is but a halfe doing, and not worthy the name of a Session of the Peace.

It shutteth out also such assemblies as doe consist of two Iustices of the Peace, meeting onely to enquire, heare, and determine of a Riot, by vertue of the Statute, 13. H. 4. For, that may they doe (as also the former) though neyther of them be of the *Quorum*. So that it is but a particular seruice, laied vpon two Iustices and the Shirife by this Statute: the Recorde whereof shall not (as I thinke and haue said already) remaine amongst the Recordes of the Sessions of the Peace.

And therefore, the assemblie that I meane, is a meeting of such Iustices for the execution of their generall authoritie.

And albeit that happily some one matter be the motiue and chiefe cause of their comming together: yet if they deale with that and others (within their Commission and charge) let it (on Gods name) passe for a Session of the Peace, according to my meaning.

The Sessions of the Peace then, bee grounded chiefly vpon the words of the second *Assignauimus* in the Commission: the which (being, *vos & quoslibet duos vel plures vestrum, quorum aliquem, &c.*) doe very necessarily require

require the presence of one of the *Quorum*.

A partition of all that which followeth in this booke.

And these three things, namely to Enquire, Heare, and Determine, doe (in effect) comprehend whatsoeuer belongeth to the Sessions: So that euery thing whereof I shall hereafter intreat, will concerne, eyther the Information of the Iustices by enquirie, and other meete meane: Or the Hearing and triall of the cause it selfe: Or the Iudgement and execution (which is the Determining) giuen and done vpon it. And therefore, in this path (GOD willing) will I tread, and by it you shall trace me to the ende.

Who shall appoint the *Sessions* of the Peace, and how: and where.

CAP. II.

Knowledge of causes at the Sessions.

THe Iustices of the Peace, doe (at their Sessions) take knowledge of causes within their Iurisdiction, eyther by the Oath of Inquirours, or by the presentment or declaration of other men: And this Inquirie is first prepared, by the apparance of the Officers and Countrie, and by the Articles giuen in charge: and then performed, by the presentment (or inditement) of them that had the charge to make it.

Preparation for Inquirie.

Now, albeit that these Sessions be commonly,

ly, and most orderly, summoned by a Precept in writing: yet is it not altogether of necessitie (for the making of a lawfull Session) to haue it so. For, if competent Iustices of the Peace doe get men to serue, and thereupon doe holde a Session (without any Precept before directed) all presentmentes made before them by twelue lawfull men, shall bee of force in lawe: but no man shall loose any thing for his default of appearance there, because no man had notice of their Sitting. Mar.

Neuertheless, because the common and allowable maner is, to cal the Officers and Countie together for this seruice, by a Precept to the Shirife, wherein both the disposition of the Iustices is notified for the holding of a Session, and the seruice and attendance of those others is commaunded to be thereat with them (which also they be well warranted to direct vnto him, by the 2. *Assignauimus* of their Commission, and by the *Mandamus* that followeth thereupon) I will lay downe the Forme thereof, which hath bene like to this:

EDWARDVS HOBY *Miles, &* W.C. *Armiger, duo Iusticiar. dom. Reg. ad pacem in comitatu Kancia conseruandam, nec non ad diuersa felonias, transgressiones, & alia malefacta in dicto comitatu perpetrata, audiendum & terminandum assignatorum, vicecomiti eiusdem comita-* Precept, to summon the Sessions of the Peace.

comitatus, Salutem: Ex parte dictæ dom. Reg. tibi præcipimus, quod non omittas propter aliquem libertatem in Balliua tua, quin eam ingrediaris, & venire facias coram nobis, vel ſocijs noſtris Iuſticiarijs pacis, &c. (tali die &c.) proximè futuro apud Maidſtone *in com. prædicto, tam 24 probos, & legales homines de quolibet Hundredo in Balliua tua, quàm 24. milites & alios probos, & legales homines de corpore comitatus tui (tam infra libertates quàm extra) quorum quilibet habeat 40. ſol. redditus terrarum & tenementorum liberè per annum ad minus: ad inquirendum tunc & ibidem ſuper hijs quæ ex parte dictæ dom. Reg. eis iniungentur. Scire facias etiam omnibus Coronatoribus comitatus tui, Seneſchallis, Conſtabularijs Subconſtabularijs, & Balliuis libertatum, infra Hundreda & libertates prædicta, quod ſint tunc ibi ad faciendum & perimplendum ea quæ ratione officiorum ſuorum ſunt facienda. Proclamari præterea facias per totam Balliuam tuam, in locis idoneis prædictam Seſſionem pacis ad diem & locum prædict. fore tenendam. Et tu ipſe tunc ſis ibidem, ad faciendum, & exercendum ea quæ ad officium tuum pertinẽt: & habeas ibi tunc, tam nomina iuratorum, Coronatorum, Seneſchallorum, Conſtabulariorum, Subcõſtabulariorum, & Balliuorum prædict. quàm hoc præceptum. Datum ſub ſigillis noſtris apud* Shoreland, *in comit. prædict. 16. die Auguſti, Anno regni dictæ dom. noſtræ Reg. Eli. Dei gratia, &c.*

This

This Precept may be made (as here it is) by any two Iustices of the Peace, so that the one of them be of the *Quorum:* for two such may hold a Session of the Peace, as it doeth plainely appeare by the Commission: and therefore (as M. Mar. sayth) it sufficeth not to haue it run vnder the name of the *Custos Rotulorum* alone, seeing that hee hath no more authoritie in this behalfe, then one of his fellowes hath: for the words of the said *Mandamus* in the Commission to the Shirife be, *Coram vobis &c. venire faciat, tot, & tales, &c.* Yea, if two such Iustices make a Precept for a Session of the Peace, all their felow Iustices cannot discharge it by their *Superſedeas:* but a *Superſedeas* out of the Chancerie will discharge it, saith Fitz. The number of the Iustices.

And if one Iustice of the Peace alone wil take vpon him to hold a Session of the Peace, (that was lawfully inmmoned by him and an other such Iustice) and will make the Stile of the Session in the names of himselfe and the other, all presentments so taken before him may be auoided: But if the Sessions be in trueth holden by two sufficient Iustices only, and the Stile (or Title) thereof bee made in the names of three, then all the presentmentes before them shall stand good. For it will not helpe the partie to say, that one of the three was not there, whē it shall appeare that two of them (the one being of the *Quorum*) were present, which wil suffise. Marr.

Touching

The time. Touching the time of holding the Sessions of the Peace, I will forbeare to speake, till I shall come to diuide the Sessions.

The place. But the place of holding them is arbitrable, and at the pleasure of the Iustices themselues, so that it be meete for accesse. And although the Precept do appoint the Session to be holden in some one towne by name, yet may the Iustices keepe it in any other towne, and all the presentments shall be good that shall bee taken where they hold it: But then againe, no amerciament can be set vpon any man for his default of apparance there, because hee had no warning of it: Marr.

So, if two such Iustices make a Precept for a Session to be holden in one Towne, and two other Iustices make an other Precept for another Session to be holden at an other Towne (or in an other part of the same Towne) the same day: then the presentments taken before either of them shall be good: Marrow. And then also it seemeth, that hee which serueth at the one Session (as a Juror, or Officer) shall bee excused for his default at the other: because they both be the Queenes Courts, and of equall authoritie.

What

What persons ought to appeare at these *Sessions*, and therein of the *Custos Rotulorum*, the *Records* of the *Sessions*, and the *Clarke* of the Peace: and how the *Iurors* ought to be qualified & ordered, & of the *priuiledge* of the *Sessions*.

Cap. iii.

FOr the better preparation towardes this Enquirie, let vs peruse the persons, that are to attend and doe seruice at the Sessions.

The Iustices of the Peace be so necessarie, as without the (though all others should appeare) no Session can be kept: and yet if any of them be absent, their fellowe Iustices cannot amerce them, as the Iustices of Assise may doe for their absence at the Gaole deliuerie: for, *Inter pares non est potestas*, and the authoritie of all the Iustices of the Peace at the Sessions is equall, so that like power hath he which is not of the *Quorum*, with him that is, except it be in speciall cases set forth in the Commission and Statutes. And therefore, it was holden (3. H. 7. Fitz. *Tit. Iustice del Peace 3.*) that if one which is not of the *Quorum*, will bee so bold as to rebuke one that is of the *Quorum*, hee and his companions may not commit him to prison for it. The Iustices.

And albeit the power of these Iustices bee

ioynt at the Sessions, yet (to some purpose) each one hath a distinct power by himselfe also. For, if one of them (sitting in this Iudiciall place) shall see a Riot, hee may cause the parties to bee arrested, and may also record the Riot, whereby they shall be so concluded, as they shal haue none answere to it. Fitzher. *Titul. Iust. del Peace. 9.*

The Recognusors. The Recognusors that stand bound to the keeping of the Peace, and to appeare at the Sessions, and such like, bee commonly tyed to the Quarter Sessions, whereunto I am not yet come: And those prisoners that are sent by Iustices of the Peace for felonie or manslaughter, or suspicion thereof, or be let to Baile or Mainprise vpon any such offence, bee (for the most part) reserued till the Gaole deliuery, wherewith I haue not to do: The rest of that kind, and the Rogues &c. may be brought foorth at euery Sessions of the Peace.

The prisoners.

But two sorts of men there are, that owe their ordinarie attendance at these Sessions, that is to say, the Officers (or Ministers) of the court, and the Iurors of the Countrie.

The *Custos Rotulorum.* Amongst the Officers, the *Custos Rotulorum* hath worthily the first place, both for that hee is alwayes a Iustice of the *Quorum* in the Commission, and amongst them of the *Quorum*, a man (for the most part) especially picked out for wisedome, countenance, and credite: And yet in

in this behalfe he beareth the person of an Officer, and ought to attend: for the wordes in the Commission bee to him nowe by his proper name, *Quod ad dies & loca praedicta, breuia, precepta, processus, & indictamenta praedicta coram te & dictis socijs tuis venire facias.*

Wherreas, vntill the 14. yeere of king Richard the 2. that charge was generall to all Justices, and not laide specially vpon any one person in the commission: as it doeth appeare in the Towre, by the Records which I haue already vouched.

This man (as his very name sheweth) hath the custodie of the Rolles (or Records) of the Sessions of the Peace: and whether the custodie of the Commission of the Peace it selfe do pertaine to him alone, it hath bene made some question: for M. Mar. saith, that seeing the other Iustices may hold a Session without him, it is meete they shoulde then haue the Commission with them. But Chocke in the booke (9. E. 4. 2.) holdeth, that a Iustice of the Peace (in making any Iustification by vertue of his Office) needeth not to shew the Cõmission of the peace: because (saith he) the keeping thereof belongeth to the *Custos Rotulorum*: and for the same cause also, the Bailife of a Iustice of the Peace shal not be driuen to shew the Cõmission as it seemeth. 20. H. 7. 7. And truely, since it is such an entire thing, as can remaine but in the handes of one

Who shall keepe the *Commission* of the Peace.

at once, it seemeth most reasonable, that hee which is put in trust with the rest of the Records, should be credited with the custody of the Commission also.

The Records of the Peace.

But under the name of the Records of the Sessions of the Peace, I doe not comprehend all maner of Records concerning the Peace: but those onely which ought to bee at the Sessions of the Peace: as Bils, Plaints, Informations, Inditements, Presentments, the Rolles of Processes, Trials, Iudgements, and Executions, and all other the Acts of the Sessions of the Peace themselues: And furthermore, the Proclamations for the Rates of seruants wages, all Recognusaunces of the Peace and good Abearing: Recognusaunces concerning Felonies, and Alehouse keepers, and such like as ought to be certified (or brought) to the Sessions of the Peace, must be numbred amongst the Records of the Sessions of the Peace: For of all these there may be vse at the Sessions, and therefore the *Custos Rotulorum*, or some for him, ought to be ready there to shew them.

And although it were before time at the libertie of a Iustice of the Peace, to certifie a Recognusance of the Peace to the *Custos Rotulorum*, (as you may see 2.H.7.1.) Yet now, by the statute (3.H.7.ca.1.) hee ought to certifie, send, or bring to the next Sessions of the Peace, that the partie may be called, and to ende also, that his

default

default (if he make any) may bee recorded: and by such record of his default, he is concluded to say, that he appeared there, 13. E. 4.

As for Precepts for Suertie of the Peace, speciall Records for conuictions of Forcible entries, Riots, and such like, as be made out of the Sessions of the Peace by particular Iustices, and be to remaine with themselues, and not appointed to be certified thither, I cannot reckon them in the number of the Records of the Sessions of the Peace: no more then I may well do the Inrolments of bargaines and sales, and such other Records lying in the charge of the *Custos Rotulorum*, or Clarke of the Peace.

But M. Brooke (Tit. Commission 11.) addeth, that the Recordes of the Iustices of the Gaole deliuerie doe remaine amongst the Records of the Peace also. Howbeit I thinke hee meant it not of all the Records of the Gaole deliuerie. For, as the Iustices of Gaole deliuery haue their proper Clarke, which maketh vp, and keepeth the Records of things determined by that Commission: so the same Iustices (being withall Iustices of Peace) doe leaue with the Clarke of the Peace, Inditements, and such causes of the Peace, as be not determined, but do hang in Processe, to the ende that offendors may be the more speedily Iusticed.

And it appeareth 13. Hen. 4. 10. that Hanford (Iustice of Gaole deliuerie) at his depar-

ture calleth the Clarke of the Peace, and willed him to take the name of a prisoner that had bene sent thither for Felonie, without any sufficient proofe, and to cause it to be inquired of at the next Sessions of the Peace.

This *Custos Rotulorum* hath credite (by 27. H.8. ca. 16.) touching Inrolments: by 11. H.7. ca. 15. to appoint two Iustices of the Peace that may control the Shirifes bookes: and by 27. El. ca. 12. for taking the oath of the Vndershirife:

The gift of the Office of the *Custos Rotulorum*.

and this office of the *Custos Rotulorum* was of auncient time giuen by the discretion of the Lord Chancellor, vntill that (about the latter end of the raigne of king Henry the eight) sundry persons (no lesse vnworthy to occupie the Office, then greedie to haue the place) did by their owne labour, and other mens friendship, obtayne at that Kings handes, grauntes of the same by his Letters patents, for terme of their liues: by meanes whereof, so many euils did shortly ensue, both to the hinderance of Iustice, and to the disherison of the Kings subiects, that the last Parliament of his raigne, (*viz.* 37. H8. cap. 1.) did somewhat restraine that course: for as it did ordaine, that none should thenceforth be appointed *Custos Rotulorum* in any shire (a fewe places of Priuiledge onely excepted) without a Bil signed with the kings hand: So it tooke order also, that the same Bill assigned should be but as a warrant to the Lord Chancellor,

cellor, to assigne (in the Commissions of the Peace) the same person to be *Custos Rotulorum*, only vntil the king should (by an other Bill, signed with his hand) make appointment of an other person for the same place. But neither this ordinance had any long life: for within a few yeres after, it was thought so preiudiciall to the power of the Lord Chancellor, & so troublesome a matter to sue to the king for bils so to be signed, that by the Parliament, (3. E. 6, c. 1) the Lord Chauncellor was wholy restored to his ancient authority in naming the *Custos Rotulorũ* againe (except in such priuiledged places) without expecting any such bill: and that the *Custos* appoynted by the discretion of the Lord Chancellor, should enioy the same Office, to be occupied by himselfe, or his sufficient Deputie, in as ample maner, as if that Statute (37. H. 8. c. 1.) had neuer bene made.

The Clarke of the Peace oweth his attendance at these Sessions also. For (omitting that hee hath speciall trust in the taking of Inrolments by 11. H. 7. c. 15: and that hee is in a sort, incorporate by that name of his office to sue vpon the Statute of Huy and Cry, 27. El. ca. 13: because those things haue no reference at all vnto the Sessions) he readeth the Inditements, and serueth the Court: he inrolleth the Acts of the Sessions, and draweth the Processe. He also must deliuer Letters to such as bee acquited of Felonie, Clarke of the Peace.

Felonie, and will begge for their fees, 22. H. 8. cap. 12. He must record the burning of Rogues through the eares: 18. El. cap. 3. and must likewise record the Proclamations of Rates for seruauntes wages, and inroll the discharge of Apprentices, 5. Elizab. cap. 4: He is appointed to keepe the counterpane of the Indenture of Armour, 4. & 5. Phil. & Mar. cap. 2. He keepeth the Register booke of licences giuen to Badgers and Laders of corne, 5. Eliz. cap. 12: and of those that are licenced to shoot in Guns, 2. Ed. 6. cap. 14: And hee is bound (vnder the paine of xl. s.) to certifie into the Kings Bench, transcripts of Indictements, Vtlawries, Attainders, and Conuictions, had before the Iustices of the Peace within the time limited by the statute, 34. H. 8. cap. 14.

All which things he cannot do, if he be not present: so that he is an officer to this Court, and is the Clarke of the Iustices, as the Statute 12. R. 2. cap. 10. nameth him, and not (as M. Marrow thought) the Clarke of the *Custos Rotulorum* only: You may read also (2. H. 7. 1.) that if a Recognusance of the Peace be brought in to the *Custos Rotulorũ*, & the party grieued will not sue forward, then the Clarke of the Peace (who is the Clarke and Atturney of the King, saith that booke) shall call vpon it for the Kings aduauntage: and I am sure, that the sayd Statute (37. H. 8. cap. 1.) calleth his place an Office.

How-

Howbeit, the nomination and appointment of him hath long time belonged to the *Custos Rotulorum:* and he is to enioy his Office, so long as the *Custos Rotul.* keepeth his place: and may exercise it by himselfe, or by a Deputie sufficiently instructed in the Lawe, and admitted by the *Custos Rotulorum*. The nomination of the Clarke of the Peace.

And this Office was also (for a time) giuen by the Kings Letters patents for terme of life, as that of the *Custos Rotulorum* was, vntill the saide statute (37. H.8.cap.1.) recontinued the auncient order of giuing it by the *Custos Rotulorum* onely.

Furthermore, the Coroners, as the common forme of the Precept sheweth, and the Statute (27.H.8.cap.5.) presumeth, ought to be present at the Sessions: But yet, that is not for to certifie their Inquisitions, for that ought by 1.& 2. Phil.& Mar.cap.12.) to be done at the generall Gaole deliuerie: nor yet to receiue any Approuer, for neither that belongeth to the Iustices of Peace, 9.H.4.1: but it is only (saith M.Marr.) because the Coroners bee parties to the Exigents, and be Iudges of the Vtlawries: Howbeit, they are (besides that) Conseruators of the Peace, and may (in cases) commit men to prison, and therefore ought to be at the Sessions, to obiect against them. The Coroners

The Sherife also, ought to attende at these Sessions, for the double duetie that hee beareth: The Sherife.

the

the one, as Sherife to returne the Precept, to take the charge of prisoners, and to serue the court otherwise, as hee hath in charge by the *Mandamus* that is mentioned in the Commission: the other, because hee also hath Care and Charge of the Peace.

Bailifes and Constables.

The Bailifes of Franchises, and the Constables of Hundreds are to serue heere, the one as Ministers, and the other as Iurors, and therefore ought to giue their attendance.

And euery of these (except it be the *Custos Rotulorum*, for thereof I doubt) may without controuersie be amerced, if they make default.

The Ordinarie.

But the Ordinary oweth not his attendance at any Sessions of the Peace, as he doth at euery Gaole deliuerie, in the opinion of M. Marr. In deede he is not warned by the common forme of Precept, and therefore cannot so conueniently take knowledge of the Sessions of the Peace. Howbeit, I thinke that he ought to serue, when he shall be called.

Iurors for Inquirie & triall.

But especially, there ought to appeare such Iurors, as be returned by the Sherife, and warned by his bailifes, whether it be for Enquirie, or triall. And in this behalfe, both the commission, the common forme of the Precept, and the Law it selfe (11.H.4.ca.9.) willeth, that they should be, *Probi & legales homines.*

For, if any of them be discredited in Law, as by Attainder in Conspiracie, Attaint, *decies tantum,*

tantum, Subornation of Periurie, Concealement, or such like, they be not *Probi*, and their presentment is voyde by it, vnlesse there be xii. (besides them) that are not so blemished.

Againe, if they bee outlawed, abiured, condemned in a Premunire, or attainted of treason, felonie, or such like: then be they not *Legales*, and their presentment is meerely voide also, as it may be gathered vpon the case, 11. H 4. 41.

And women, infants vnder fourteene yeares of age, Aliens, and such as bee within orders of the Ministerie, or Clergie, cannot be empanelled amongst others.

Generally also, these Iurors ought, either to be inhabiting within the Shire, or els to haue lands there: for the Commission willeth, that they should be such, *Per quos rei veritas melius sciri poterit*: which must needes bee vnderstood of such, as haue cause to know the country: And the Precept is vsually according to the same forme, especially (in the Countie Palatine of *Lancaster*) each Iuror of enditement and triall, ought to haue to the yerely value of fiue pounds, by order of the statutes, 7. H. 5. cap. 1: 18. H. 6. cap. 12. & 33. H. 6. cap. 2.

If any of these Iurours returned, bee threescore and ten yeres of age, or haue any continuall infirmitie, or be otherwise decrepite, yet that shall not excuse him for not appearing, if the Iustices will exact his seruice: but hee is driuen

to

to his Action vpon the Statute (W. 2. cap. 38.) against the Sherife for his returning of him, Marr.

And if hee haue a Charter of Exemption, hee ought to shewe it to the Sherife: against whom (if he wil notwithstanding empanel him) hee may haue onely his Action vpon the Case, and none other remedy, 18. H. 8. 5. *Curr.* which may bee truely saide, as to the sauing of his issues: but (by some other bookes, and namely 42. Ass. Pl. 5. and Mar.) hee is to bee discharged vpon his apparance, and specially where he hath in his Charter of Exemption these words, *Licet tangat nos*, vnlesse it fall out that there want others that be sufficient to serue and furnish the number.

Nowe, though some of the Iurors of this Enquirie, be of affinity (or consanguinitie) with any partie grieued, that procureth the inditement: yet that hindreth not their presentment: howbeit it is no discretion, for the Iustices to suffer any such to be empanelled.

Generall and particular Iuries.

Our common maner in *Kent* (agreeing with the forme of the precept) is to returne particular Iuries for the Hundreds, and one generall Iurie for the body of the Shire: this last is made vp with vs (for the most part) of the Constables only: and those others (if they be not filled at the first) are wont to be renued with the *Tales* from Sessions to Sessions. But that vsage is no smal

hinde-

hinderance to the seruice (as many doe thinke) by reason that (those particular Iuries being seldome serued with full apparance) the whole Enquirie standeth onely vpon their labour that are empanelled for the body of the Shire, that is to say, vpon one man of each Hundred, or two (at the most) who cannot bee thought to see so much as a whole Iurie of eyes may and doth.

And therfore, they thinke, that it were good to make vp some of the particular Iuries also (whē they bee not full) *de circumstantibus* of other Hundreds: by which meane, either the whole Shire, or (at the least) a great many parts thereof, might be perused.

To this opinion M. Marrow seemeth to encline, saying, that in default of those which are returned, the Iustices may take a Iurie *de circumstantibus*: And heereunto also the Statute (3. H. 8. c. 12.) sheweth some further consent, in that it giueth power to the Iustices, by their discretion to commaund the Sherife, or his deputie, to adde, alter, or diminish the names of the pannell, which, if he refuse to doe, he shall forfeit xx. li. for his contempt.

Neither is it to be obiected, that men (being all of one Shire) may not take knowledge of things done in diuers Hundreds: Seeing, they haue diuers occasions of meeting together, as at the Countie Courts, the Sheriffes turnes, the Assises, and generall Quarter Sessions. And if a

if a Iurie of one Hundred would make presentment of an offence done within any part of the Shire, (out of their owne Hundred) this were good in Law.

Besides which (if M. Marr. mixture bee followed) few of them that doe appeare, shall loose their labour, wheras now the most part of them doe come in vaine.

How they of the *Iurie* must be sworne and ordered.

But these men be not truely Iurors, till they be sworne, as their name pretendeth, and otherwise their presentment is veterly void. And if it should (by any oversight) happen, that they or some one of them, were not sworne at all: yet if the Record make mention, that they be sworne, their presentment is of force inough: for the Record may not bee gainesaid.

And the Iustices may (vpon cause) remoue a Iuror, after he is sworne. 20. H. 6. 5: Againe, if (after the swearing of the Iurie) their seruice be put off till the next day, (vpon any vrgent occasion) then may they be sworne of new, as if they had not before appeared: 7. H. 4. 38.

The number of Iurors.

Each Iurie of Enquirie ought to containe twelue in number at the least, and if there bee 18. or moe, it shall not bee amisse: Yea it is the common order with vs, to haue them of an odde number, as 17. 19. or 21: to the ende (as it seemeth) that if they should dissent in opinion somwhat equally, yet there should bee alwaies one to weigh downe the side, and cast the ballance.

But

But if twelue of them doe agree, the gaine-saying of the residue cannot hinder the presentment. Yea, the law was (in the time of King Ethelred) that in a Iurie of 12. the agreement of 8. should preuaile, and make a good verdict, although for a long time together it hath beene, and yet is, otherwise vsed.

The Iustices ought not to commit these Iurors of enquiry to any keeper: nor to keepe them without meat or drinke: nor to carry them out of the Towne: And yet they may adiourne them to another place, to giue their verdit.

If these Iurors doe wilfully conceale offences (presentable, and that bee complained of by Bill) then may the Iustices choose an Enquest of persons (whereof euery one may dispend 20 l. s. by yeare) to enquire of their concealment: And if any such concealement bee founde within the yere, euery one of the first Enquest shalbe amerced in full Sessions, by the discretion of the same Iustices, 3. H. 7. c. 1. Concealment

And because the Iurors of those dayes were yet wilfull in their concealments, it was prouided within eight yeeres after, that the Iustices of Peace should determine causes, vpon information, without any such presentment. But, *Inuitum ducit culpæ fuga, si caret arte*, and therefore that ordinance endured not long, as you shall hereafter perceiue.

Finally, these Iurors ought not to discouer their

Keepe counsell.

their owne doings: for it is vsually a part of their Oath, that they shal keepe the Queenes Counsell, and their fellowes. And we reade in Fitzh. (Tit. Coron. 207. & 272.) that to indite a man of Felonie, and then to shew abroad to others what they haue done therein, hath beene taken for Felony: Howbeit, that offence is now taken to be fineable onely.

Priuiledge of the Sessions.

And now we, as all these owe their seruice at the Sessions, either by reason of their office, or by vertue of the Summons: So all others also may freely attend there, if not for any thing that specially concerneth themselues, yet for the aduancement of publique Iustice, and for the seruice of the Queene. And to this ende, they are inuited thither (as I may say) by a certain freedome of accesse, and by protection from common arrest: a thing, that is incident to each court of Record, and without the which, Iustice should be greatly hindered. So that, if a man come voluntarily to these Sessions, with the minde, eyther to preferre any bill of Enditement, or to giue information against an other: or to tender a fine vpon an Enditement, touching himselfe: or doe come compelled to make apparaunce for the sauing of his bond, and bee arrested by the Sherife vpon common and originall processe, in his comming thither, or during his tarying there: it seemeth that (vpon examination of the matter vnder his oath) hee shall bee dismissed thereof

thereof by the priuiledge of this Court, euen as it is vsed in the higher Courts at *Westminster*, 1. Hen. 7. 12, &c.

Of the *Articles* that are to be giuen in charge, at the *Sessions* of the Peace.

Cap. IIII.

IT was the ancient maner, that twise in the yeare at the Sherifes turne (which was sometime a Court of great authoritie, and called Shiremoote) the Bishop of the dioceſſe, and the Alderman (or Earle) of the Shire, shoulde be present: the one, to enforme the people in the lawes of God: and the other to instruct them in the lawes of the land: Archaionom, *inlegibus Canuti, Cap.* 17.

And it were to be wished, that as there is commonly at euery Assises, a Sermon (vttered by some learned man) so also the like might bee at each generall (or quarter) Sessions of the peace. For, seeing that the lawes of men must be obeied for God, it doeth of neceſſitie ensue, that hee which will seeke to haue man obeyed rightly, must first cause God to be preached truely.

The Iustices of the Peace (saith M. Fitz.) for their parts be bound to enforme the people: and

(no doubt) the charge is giuen, as well to instruct those that be ignorant, least they offende vnwares, as to enquire of those that haue already fallen into danger by offence: and thereof it is, that many statutes doe expresly commaund, that they shalbe openly read (or declared) at the Sessions, as you shal see in place for it.

The auncient order, of giuing the charge in *Eire*.

But the maner of giuing the Charge, and receiuing the Verdict at this day, differeth from that which the Iustices in Eire were wont to vse: for you may see, in M. Bracton (Fol. 116.) that first one of the Iustices did open before the whole assembly, the benefits of the seruice in hand: the commodities of keeping the Peace: and the euils of the contrary: and that then the Articles of the charge were read by one and one to the Iurors: who (receiuing the same at the hands of the Iustices) did also make answere in the yeelding vp of their verdite, to each Article seuerally, and by it selfe.

Which custome, as it had many profits: so is it worthie (in mine opinion) to be recontinued, and brought in vse againe.

Neither ought the multitude of the Articles (now inquirable) to discourage any man in this behalfe: For, if those lawes which bee least seruiceable (either for the present time, or for the place, or other iust respect) were onely touched or run ouer, by way of short Article: then would there be the more time affoorded, for speech that might

might be wel spent, as wel in discourse of exhortation, or dehortation, as in the larger handling of such other statutes, whereof there is greater vse and necessitie. And this libertie, the Iustices in *Eire* themselues did vse also, as the same M. Bracton in the same place reporteth.

The points of the charge that wee haue in hand, may be reduced to a few heads, and that after sundrie sortes of distribution: of which (for examples sake) I will shewe you some. First thus: The points of the charge diuided.

1 All the matters inquirable, be either Ecclesiasticall, or Lay and Temporall: and these Temporall, be either high treasons, petite treasons, felonies, or otherwise punishable and fineable offences: Or thus,

2 All these points, doe either concerne God, the Prince or Subiect: or thus,

3 The breach of these Articles, is offensiue, either against the first, or the second Table of the ten Commandements of God: or thus,

4 All these matters be inquirable, either by vertue of the Commission of the Peace, and of the statutes therein implied, or els by power of the Statutes not comprehended within the Cõmission: Or thus,

5 Al these Lawes do either command or prohibite, things agreeing, or repugnant to some of the foure Cardinall (or principal) vertues, Prudence, Iustice, Fortitude, or Temperãce, or thus:

6 All these ordinances doe either draw vs to the good, or withdraw vs from the euill, of the mind, the body, or Fortune. Or thus:

7 Men doe offend these lawes, either by doing nothing of that which is commanded: or by doing an other thing then is commanded: or by doing that amisse, which is commaunded well. Or thus:

8 These lawes be offended, either by doing too much, or two little.

They may also be deuided, by the variety of the punishments, and by some other Accidentall respects: all which I leaue to the choyse of such as shall giue them in charge, and wil nowe (for this time) set down the Articles themselues, after the order of the first and third sorts of diuision, pointing out in the first place the Ecclesiasticall causes, and then pursuing the Temporal.

The maner of this charge.

In which doing, first, I wil omit all such statutes, as doe concerne, but onely some one, or a few particular places: knowing that I write to the most part, who haue not to do with them.

Secondly, I wil purposely preterмit the distinct rehearsall of punishments, contained in the statutes, that I am to runne thorow: as well for breuities sake, because those doe rather pertaine to the Iustices, then to the Iurors, as also for that I haue an ancient Precedent or twaine, to make for me: the one of the Iustices in *Eire*, who (in their charge) did only reade the Articles

cles in offence, without vsing any mention of the paines due vnto the same, As it appeareth by *Bracton*, *Britton*, and the small volume of the olde Statutes, vnder the Title, *Capitula Itineris*: and another like, of the Articles deliuered to the Enquest of office, in the Kings Bench, as is to be seene in the booke of Assises, *lib.* 27. pla. 44. And yet, if in some special point it may be seruiceable, to haue the paine of the lawe laide wide open (as in a great many, though the smalnesse thereof, it wil doe no good at all) the Reader shal finde it for the most part quoted in the Margine here, and ready to bee vsed by him.

Lastly, I wil neither recite al the other parts of each generall statute by it selfe, nor yet comprehend them wholy and fully with others: because the first of these wayes woulde bee very long, though the often iteration of the same things: and the other would be so crooked and comberous (though the varietie and difficultie of the exceptions) that the hearer would be many times lost, before I shoulde come to the ende.

I know, that M. Fitzh. was of the opinion, that the Iustices of Peace ought at their quarter Sessions, and may at their priuate Sessions, giue in charge to the Enquest, all such matters as they haue power to determine: and this hee vrgeth, as well by the oath of the Iustices (who are sworne to do right in al causes within their Cōmission, or the statutes) as also by the ignorance

of the Iurors, who cannot bee instructed but by the charge: which if it bee so, I see not (for my part) how either these Iustices (that are bounde to vtter all) can bee discharged, or the Iurors (that ought to heare all) can be enformed, without this, or some such compendious and plaine way, that may both shortly for the time, & lightsomly for the order, comprehende the chiefe substance of all that which belongeth to their Enquirie.

Howbeit, as I thinke it the best for the Iustices, to rehearse all such points, whereof the Iury may make presentment before them: so yet, I hold them discharged (in my slender opinion) if they vnfolde onely the articles of their Commission, and of such other statutes as do expresly authorise them to make enquirie.

For, as there be sundry lawes that doe giue to Iustices of the Peace a certain special (or particular) power in them, & do not yet yeelde vnto thē any authority to enquire vpon the same (of which sort bee the statutes, 27. H. 8. c. 20: & 32. H. 8. c. 7: of Tithes: The statute 35. H. 8. c. 17: of Woods: The statute 23. El. c. 9: of Logwood, and sundry others:) So also there bee diuers others, that do afoord to the Iustices of Peace, the power of hearing and determining, and yet do not expresly giue them the name of Inquirie.

And, forasmuch as they may heare and determine of these, by Information (giuen to thē-

selues,

selues, and by them recommended to the Jury) it seemeth to me, that they be not so necessarily bound to giue them in charge, but that they be wel inough discharged, if they be open & ready to receiue the Informations & presentments that shalbe offered vpon them: And of this kind be the statutes of Highwayes (5. Eli. ca. 13: & 18. El. c. 9.) the statute of Fighting in Church, or Churchyard (5. Ed. 6. ca. 4.) the statute of Informers (18. Eli. ca. 5.) and sundry others, whereof it would be superfluous to make rehearsall.

Neuertheless, because I will not, that my fantasie shal either stand against his iudgement, or be preiudiciall to other mens profite, I haue contended (what I may) to deliuer the principal and most seruiceable parts, not only of the Cómission and of such Lawes as doe specially containe their Inquirie within them, but also of all such other statutes as may be heard and determined by Iustices of the Peace at any their Sessions: and that in so narrow a roome, as (if I be not after some proofe deceiued) they may be distinctly read ouer in a couple of houres, at the most: So alwaies, that the varieties of the punishments, the yeares of the Kings and their parliaments, and such other Notes as fall in by the way, bee left vnread, and be passed ouer.

Eccleſiaſticall cauſes.

Extoll any foraine power.

IF any perſon haue (within this halfe yeare) by writing, printing, teaching, preaching, expreſſe deede, or act, aduiſedly, maliciouſly, and directly affirmed, holden, ſet forth, or defended, the authoritie, prehemínence, power, or iuriſdiction Spirituall or Eccleſiaſticall, of any foraine Prince or perſon whatſoeuer heretofore claimed, vſed, or vſurped in this Realme, or any the Queenes dominions, or haue aduiſedly, maliciouſly, & directly, put in vſe, or executed any thing for the extolling, ſetting forth, or defence of any ſuch pretended or vſurped iuriſdiction, prehemínence, or authoritie, or any part thereof. Or if any perſon (compellable to take the oath of Recognition of the Queenes Maieſtie to bee ſupreme gouernour in all cauſes within her dominions) haue refuſed to take the ſaid oath, after lawfull tender thereof to him made, 1. Eliz. cap. 1: 5. Eli. ca. 1, enquirable by words of 23. Eli. cap. 1.

Offence { 1 *Premunire.* 2 *Treaſon.*

Refuſe the oath.

Offence { 1 *Premunire.* 2 *Treaſon.*

If any perſon, vnder the Queenes obedience haue at any time (within this yere) by writing, ciphering, printing, preaching, or Act, aduiſedly holden, or ſtood with, to extol, or defend the power of the biſhop of *Rome*, or of his See heretofore claimed, or vſurped within this realme: or by any ſpeach, open deede, or acte, aduiſedly attribu-

Pope.

Premunire.

attributed any ſuch maner of authoritie to the ſaid See of *Rome*, or to the Biſhop therof, within any the Queenes dominions, ye ſhal preſent him, his abettors, procurers, counſellors, aiders and comforters. 5. El. cap. 1.

If any perſon haue by any meanes practiſed to abſolue, perſwade, or withdraw any other within the Queenes dominions from their naturall obedience, or (for the intent) from the religion now eſtabliſhed here, to the Romiſh religion, or to mooue them to promiſe obedience to the See of *Rome*, or other eſtate: Or if any perſon haue beene willingly ſo abſolued, or withdrawen, or haue promiſed ſuch obedience. Withdraw any from obedience. *Treaſon.*

And if any perſon haue willingly ayded or maintained any ſuch offendor, or knowing ſuch offence haue concealed it, and not within twentie dayes diſcloſed it to ſome Iuſtice of Peace, or other higher Officer. 23. El. cap. 1. *Miſpriſion of Treaſon.*

If any perſon haue ſayde[1] or ſung Maſſe: or haue willingly [2]heard Maſſe. 23. Eliz. cap. 1. Maſſe.
[1] 200. *marks, & a yeeres priſonment.*
[2] 100. *marks, & a yeeres priſonment.*

If any perſon haue vſed, or put in vre, any Bull, writing, or inſtrument of abſolution or reconciliation, or of other ſort, gotten from the biſhop of *Rome*, or See of *Rome*, or from any perſon claiming authoritie from the ſame: Or haue by colour of any ſuch taken vpon him to abſolue, or reconcile any perſon: or haue publiſhed any ſuch Bull or inſtrument. Or if any perſon Bull, *Agnus Dei, &c.* *Treaſon.*

perſon haue receiued ſuch abſolution, or haue procured, abetted, or counſelled any ſuch offendor, to the intent to vphold ſuch offence.

Premunire. If any perſon haue (after ſuch offence) aided, comforted, or maintained ſuch offendor, to the intent to vpholde the authoritie of the ſaid See of *Rome*.

Miſpriſion of Treaſon. If any perſon (to whom ſuch Bull or Inſtrument hath bene offered or perſwaded) haue not within ſixe Weekes next after ſignified the ſame to ſome of the Queenes priuie Counſell, or to the Lord Preſident of the *North*, or of *Wales*.

Premunire. If any perſon haue brought hither from the biſhop, or See of *Rome*, or from any perſon authorized, or claiming to be authorized by any of them, any *Agnus Dei*, croſſes, pictures, beades, graines, or ſuch like ſuperſtitious things, and haue the ſame deliuered, or cauſed, or offered to be deliuered, to any the Queenes ſubiects to vſe or weare in any wiſe: and if any perſon haue to ſuch intent receiued or taken the ſame, and haue not apprehended the offerer thereof, nor within three dayes after diſcloſed him to the Ordinarie, or to ſome Iuſtice of the Peace, nor within one day deliuered the thing to ſome Iuſtice of the Peace. 13. Eliz. cap. 2: 23. Eliz. cap. 1.

Ieſuites and Seminaries. If any perſon (being at libertie or out of hold) haue ſince the viii. day of May, in the 27. yeere

peere of her Maieſties raigne, wittingly and willingly, receiued, aided, or maintained within any part of her highneſſe dominions, any Jeſuit, Seminarie prieſt, or other ſuch prieſt, deacon, or religious, or eccleſiaſticall perſon, being borne within this Realme, or any her highneſſe dominions, and (at any time ſince Midſommer in the firſt peere of her Maieſties raigne) made, ordained, or profeſſed by any authoritie deriued, chalenged, or pretended from the See of *Rome*, knowing him to be a Jeſuite, Seminarie prieſt, or other ſuch prieſt, deacon, or religious or eccleſiaſticall perſon, 27. Eliz. cap. 2. *Felonie.*

If any perſon haue vſed Inuocation or Coniuration of euill ſpirits for any cauſe: or haue vſed Witchcraft, Inchantment, Charming, or Sorcerie, whereby any perſon is killed or deſtroyed: 5. Eliz. cap. 16. *Felonie.* Coniuration.

If any perſon haue practized any Witchcraft, enchantment, charme, or Sorcerie, whereby any perſon hath bene waſted, or lamed, in bodie, or member: or whereby any the goods, or cattailes of any perſon haue bene waſted, or empayred. And if any haue bene aydors, or counſeilours, to any of theſe,

Offence { 1 *One yeeres impriſonment, and foure times on pillorie.* 2 *Felonie.*

If

Offence
1 *Priſonment and pillorie as before.*
2 *Forfeit all goods, and priſoned for life.*

If any perſon hath vndertaken, by witchcraft, enchantment, charme, or ſorcerie, to tell in what place any treaſure of Golde, or Siluer might be found: or where goods loſt (or ſtolen) ſhould become: Or if any perſon haue practiſed any Sorcerie, enchauntment, charme, or witchcraft, to the intent to prouoke any perſon to vnlawfull loue or to hurt, or deſtroy any perſon, in body, member, or goods. 5. Elizab. cap. 16.

Prophecying.

Offence
1 *Ten lib. and a yeres priſonment.*
2 *All his goods, and priſonment for life.*

If any perſon haue within theſe ſixe moneths aduiſedly aduaunced, publiſhed and ſet forth, by writing, printing, open ſpeach, or deed, to any other perſon, any fantaſticall, or falſe prophesie, vpon armes, fieldes, beaſtes, or badges, or vpon any time, name, bloudſhed, or warre, to the intent to make thereby rebellion, diſſenſion, loſſe of life, or other diſturbance within the Queenes dominions. 5. Eliz. ca. 15.

Felonie.

Set foorth how long the Queene ſhall liue.

If any perſon haue, by ſetting of figure, caſting of Natiuitie, or by Calculation, Prophesie, Witchcraft, Coniuration, or other vnlawfull meanes whatſoeuer, ſought to know, and haue ſet foorth by expreſſe wordes, deed, or writing, how long her Maieſtie ſhall liue, or who ſhall raigne after her deceaſe: Or elſe haue aduiſedly, and with a malicious intent againſt her maieſtie, vttered any direct prophecie to ſuch purpoſe.

purpoſe. And if any perſon haue aided, procured, or abetted any ſuch offendors. 23. El. ca. 2.

If any perſon haue vnlawfully procured any other to commit wilfull and corrupt periurie, in any cauſe depending in ſute in any of the Queenes Courts of Record, or in any Leete, Court Baron, Hundred, or Court of ancient demeſne: or haue corruptly ſuborned any witneſſe ſworne to teſtifie *in perpetuam rei memoriam*: or if any perſon haue vpon ſuch procurement, or by his owne act wilfully committed ſuch Periurie. 5. El. cap. 9: & 14. El. cap. 11. Periurie. *Halfe a yeeres priſonment, ſtand vpon the pillory, and diſabled for a witneſſe.*

If any perſon hath of purpoſe, maliciouſly, or cõtemptuouſly, moleſted, or by any vnlawful meanes miſuſed any Preacher lawfully authorized, in any his open Sermon or preaching, in any Church, or other place, vſed, or to bee appointed: and who were his ayders, procurors, or abetters, 1. Mar. ca. 3. Learne if this Statute do ſtand, for this part. Diſturbe Preacher. *Three moneths priſonment, and bound to his good port.*

If any perſon haue (within theſe three monethes) by contemptuous, or reuiling wordes, or haue aduiſedly in any other wiſe, depraued, deſpiſed, or reuiled the bleſſed Sacrament of the body and blood of Chriſt. 1. E. 6. cap. 1: & 1. El. cap. 1. Sacrament. *Impriſonment, and fine.*

If any Parſon, Vicar, or Miniſter, haue refuſed to vſe the common prayers, or to miniſter the Sacraments according to the booke of common Seruice and Sacraments

mon prayers: or (wilfully ſtanding in the ſame) haue vſed any other fourme in open prayers, or in adminiſtration of the Sacraments, or haue ſpoken any thing in derogation, of the ſaid booke, or any part thereof: Or if any perſon haue in any play, ſong, or rime, or by any open word ſpoken in derogation of the ſaid booke, or of any thing therein contained: Or haue cauſed, or maintained any perſon, vicar, or Miniſter, to ſay any Common prayer, or to miniſter any Sacrament in other maner then after the ſaide booke: Or haue interrupted any perſon, vicar, or Miniſter, to ſay open prayer, or to adminiſter any Sacrament, according to the ſaide booke, 1. Eliz. cap. 2: & 23. Eliz. cap. 1.

Fine.

1 *Loſſe of his promotion for a yeere: and impriſonment by ſixe moneths.*
2 *Depriuation, and impriſonment by a yere.*
3 *Depriuation, and priſoned for all his life.*

1 100. *markes, or ſixe moneths priſonment.*
2 400. *markes, or* 12. *moneths priſonment.*
3 *All his goods, and priſonment for life.*

Repaire to Church.

If any perſon (being aboue the age of 16. yeeres, and not hauing lawfull and reaſonable excuſe to be abſent) haue not repaired and reſorted to his or her pariſh Church, or Chappel accuſtomed, or (vpon let thereof) to ſome vſuall place where Cõmon prayer is to be vſed, vpon euery Sunday, and other holy day: and haue not there orderly and ſoberly abiden, during the time of ſuch Common prayer, preaching, or other ſeruice of God: and how long ſuch perſon hath forborne, ſo to repaire and reſort, 1. Eliz. cap. 2: & 23. Eliz. 1. cap. 1.

Twelue pence for each offence, and puniſhment by cenſures of the Church.

If

If any perſon haue kept or maintained any Schoolemaiſter which reſorteth not to the Church, or is not allowed by the biſhop, or Ordinarie of the Dioceſſe, 23. Eliz. cap. 1. — Schoolemaſter. *The maintainer 10. li. for each moneth. Schoolemaſter priſoned for a yere, & diſabled.*

If any perſon haue maliciouſly ſtriken any other with any weapon, in any Church, or Churchyarde, or drawen any weapon there to that intent, 5. E. 6. ca. 4. — Fighting in Church or Churchyard. *Looſe one of his eares, or to be marked with F.*

If any perſon haue kept Faire, or market in the churchyard, Stat. Winton. 13. Eliz. 1. — Faire or Market in Churchyard. *Fine.*

If any perſon haue feloniouſly taken goods out of any Church or Chappell. — Robbe Church or Chappell. *Felonie.*

Felonies in Lay cauſes.

If any Seruaunt haue killed his or her maſter, or miſtreſſe: or any wife her huſband: or any Eccleſiaſtical perſon his prelate. 25. Ed. 3. cap. 2. — *Petit Treaſon.* Seruant and Maſter. Husband and Wife. Clarke and Prelate.

If any perſon haue (of prepenſed malice) killed or murdered another, openly or priuily, whether hee that was killed were an Engliſhman, or a Stranger, liuing vnder the protection of the Queene. — Murder. *Felonie: and ſo be the reſt that follow.*

If any haue wilfully killed any other by poiſoning: and who be his aiders, abetters, procurers, and counſellors. 1. Ed. 6. cap. 12. — Poiſoning Murder.

If

Manslaughter. If any person haue by chance medley feloniously killed an other.

Cut out tongue, or put out eyes. If any person haue of malice prepensed, cut out the tongue, or put out the eyes, of any of the Queenes Subiects, 5.H.4.cap.5.

Gaoler handling straightly his prisoner. If any Gaoler, keeper, or vnderkeeper, of a prison, haue by duresse and paine compelled any his prisoner, to become an appeacher of others against his will, 14.E.3.cap.10.

Buggerie. If any person haue committed the detestable vice of Buggerie, with man, or beast, 25.H.8.cap.6: & 5.Eliz.cap.17.

Rape. If any man haue rauished a maid, widow or wife, aboue ten yeres of age, against her will, although she consented afterward. W.2.cap.34.

Child. If any man haue carnally knowen and abused any woman childe, vnder ten yeeres of age, though she consented before. 18.El.ca.7.

Take woman. If any person haue taken a maiden, widow, or wife, hauing lands or goods, or being heire apparant to any, against her will vnlawfully (other then his ward, or bondwoman) and of his procurers, abetters and receiuers, knowing thereof. 3.H.7.ca.2.

Robberie. If any person haue robbed another, going or riding by the way, or otherwise, how much, or how little soeuer it be that he taketh from him: or haue priuily and fraudulently picked or cut the purse of an other, being vpon him. 8.Eliz.

Cutpurse.

Rob house. cap.4. Or haue robbed any house by day, or by

by night, any person being in the same, and thereby put in feare: Or hath robbed any person in any part of his dwelling, the owner, wife, children, or seruants, being therein, or within any other place within the precinct thereof, and then being waking, or sleeping: Or hath robbed any person being in a tent or booth, in a Faire or Market, the owner, his wife, children, or any seruant being then within the same, sleeping, or waking, 5. Ed. 6. ca. 9. Booth, or Tent.

If any person, or persons, haue feloniously taken the goods of any other: and whether the same be aboue xii. d. in value or vnder. Larcinie, and *petite Larcinie.*

If any Purueiour for the Queenes Maiesties house, or his vndertaker, deputie, or seruaunt, haue made any purueiance without warrant, and haue caried any thing away against the consent of the owner, being aboue xii. d. in value. 28. Ed. 1. cap. 2: 18. Ed. 2. cap. *vltim.* 5. Ed. 3. cap. 4: 2. & 3. Phil. & Mar. cap. 6. Purueiors.

If any Purueior of the Queene, or his Undertaker, Deputie, or Seruant, haue taken any cariage in any other maner then is contained in his Commission 36. Edw. 3. cap. 2. Or haue made purueiance without the testimonie and appraisement of the Constables, and foure honest men of the towne, and without deliuering Tales or Indentures vnder his Seale, testifying his purueiances, the goods being aboue xii. d. in value, 5. Ed. 3. cap. 2: 25. Ed. 3.

cap. 1. Or hath taken any sheepe with their wools betweene Easter and Midsommer, at smal prices, and caried them to his owne house, and shorne them, 25. Ed. 3. cap. 15.

Quære, if the Felonie of Purueiours (made 36. Ed. 3. cap. 6.) be not altered by 23. Hen. 6. cap. 14.

Hawke embeseled.

If any person haue found a Falcon, Tercelet, Lanor, Laneret, or other Falcon, that was lost, and hath not forthwith brought it to the Shirife, that hee might proclaime it, but did steale and cary away the same, 34. Ed. 3. ca. 22: 37. Ed. 3. cap. 19.

Seruaunt embeselling goods deliuered.

If any Seruaunt (being 18. yeeres of age, and not being an Apprentice) hath gone away with, or hath conuerted to his owne vse, any money, iewels, goods or cattels of his maisters or mistresses, and of his or her deliuerie to keepe, of the value of fortie shillings, to the intent to steale the same, 21. H. 8. cap. 7: 5. El. cap. 10.

Burglarie.

If any person haue by night broken any House, Tower, Wals, or Gates, and hath entred in with an intent to do any robbery, murder, or other felonious act there: Or if any person haue burned any dwelling house: or haue by night burned any barne neere to a dwelling house.

Burne house or barne.

Breake prison.

If any person imprisoned for felony, haue broken prison: 1. Ed. 2. Or if any other person haue

haue broken the prison for such a prisoner, by which he escapeth: Or if any Gaoler haue willingly suffered such a prisoner to escape: and if any person, being arrested for felonie, haue bene rescued, and by whom.

If any person haue deuised vnlawfully and maliciously to set at libertie any prisoner endited of treason (concerning the Queenes person) and haue expressly vttered the same deuise, 14. Eliz. cap. 2. Enlarge a prisoner.

If any person haue deuised maliciously to take or keepe from the Queene, any of her castles, townes, fortresses, or holdes, or to raze, burne, or destroy any of them maliciously and traiterously (the same hauing munition, or souldiours therein of hers) and haue vttered the same deuise, 14. El. cap. 1. Take, keepe, or destroy castles, &c.

If any person, hauing the charge or custodie of any Armour, Ordinance, Munition, Shotte, Powder, or habillements of Warre of the Q. Maiesties, or of any victuals (prouided for the victualing of any Souldiours, Gunners, Matyners, or Pyoners) shal for any lucre, or gaine, wittingly, aduisedly, and of purpose to hinder, or empeache her Maiesties Seruice, embesile, or conueigh away, any of the same, to the value of xx. shillings at once, or seuerall times. 31. El. Reg. cap. 4. Conuey munition, or victuals.

If any person haue vnlawfully hunted in the night, in any Forrest, Parke, or Warrein, or Hunting by night.

with painted faces, visors, or other disguisings, to the intent to be vnknowen, and haue vpon examination by one of the Queenes counsell, or by a Iustice of Peace of the same shire, wilfully concealed such hunters or hunting, or haue disobeied any arrest for such hunting, or made rescue to any person warranted to arrest such hunter, so that the warrant was not executed, 1.H.7.cap.7.

Multiplying. If any person haue practised the arte of multiplication of gold or siluer, 5.H.4.cap.4.

Conuey Sheepe. If any haue the second time brought, sent, or receiued, into any ship or bottome, any rams, sheepe or lambes being aliue, to be conueied out of the Queenes dominions, or haue procured the same, 8.Eliz.cap.3.

Conuey horses into Scotland. If any person haue sold, exchanged, or deliuered within *Scotland*, or the batable ground, to the vse of any Scot (without the Queenes licence, vnder her great seale) or sold, exchanged or deliuered to any Scot within *England*, *Wales*, *Barwike*, the Marches, or batable ground, to the intent to be conueied into *Scotland* (without such licence) any horse, gelding or mare: and if any haue so bought any of the same, 23. H.8.cap.16: 1.El.cap.8.

Slanderous newes. If any person haue (aduisedly, and with a malicious intent against the Queenes Maiestie) deuised, written, printed, or set foorth any booke or writing, containing any false, seditious

and

and slanderous matter, to the defamation of her Maiestie, or to the incouraging or mouing any insurrection or rebellion within her Realme or dominions: or haue (aduisedly, or with a malicious intent against her Maiestie) procured any such booke or writing to be written, printed, or set foorth: Or haue maliciously, by any words, writing, or printing, wished, or desired her Maiesties death, or depriuation, or any thing directly to that effect: and if any haue aided, procured, or abetted any such offendor, 23. Eliz. cap. 2.

If any persons (of, or aboue the number of twelue) haue bene assembled, and haue intended, gone about and practised with force of armes vnlawfully to change any lawes of this Realme, or to cut or cast downe any inclosure of parke, or inclosed ground, or the bankes of any fishponde, or any conduit head or pipe, to the intent they should lie open, or voyde, or to haue any Common or way there: Or to destroy the Deere or Conies in any Parke or Warren, or Douehouses, or Fish in Poole, or pond, or to cut downe any houses, Barnes, Milles, or Bayes, or to burne any stacke of corne or graine, or other vsuall sustenance of men: and (being commanded by the Shirife, or any Iustice of peace of the shire, or by the Maior, Shirife, Iustice of Peace, or Bailifes of the citie, Borough, or Corporate towne, where the as- Rebellious assemblie.

semblye was, by Proclamation in the Queenes name to depart to their houses) haue notwithstanding continued together one houre after, or haue after that, forcibly attempted to doe any such thing.

And if any person haue vnlawfully by ringing of Bell, sounding of Trumpet, Drumme, Horne, or other instrument, or by firing of Beacon, or by malicious speeche, or Outcrie, or by setting vp, or casting any writing, or by any other act raised, or caused to be raised twelue persons, or aboue, in such maner, & to any such intent as is aforesaid, and they (being commanded by Proclamation, as before) haue neuertheless continued together one houre after, or haue afterwarde attempted forcibly to doe any of the said things: And if any the wife, or seruaunt of any the saide assembled persons, or if any other person haue willingly and without compulsion, deliuered, or conueied money, harnesse, weapon, or victuall to any of the said persons assembled, during their abode together as before. And if any person haue hindered or hurt any that did proclaime, or went to proclaime, as before: and if any the parties so assembled (knowing of that hinderance, or procuring it) haue neuertheless afterwarde committed or put in vre any the things aforesaid: And if any persons (to the number of fourtie or moe) haue so assembled to the intent to do any the said things,

things, or any other felonious or rebellious act, and haue continued together three houres, after ſuch proclamation made, at or nigh the place of aſſemblie, or in ſome market towne next adioyning, and after notice to them thereof giuen, 1. Mar. Parl. 1. cap. 12: & 1. El. cap. 17.

Souldiour, Maryner, or Gunner departing.

If any ſouldiour (entred a ſouldiour of Record) and hauing taken part of the Queenes wages, or any Maryner or gunner (hauing taken preſt wages to ſerue the Queene on the Sea) haue not accordingly gone to his captaine (vnleſſe he were letted by notorious ſickneſſe, or other impediment from God) or haue departed from his Captaine, without his licence vnder his ſeale, 18. Hen. 6. cap. 19: 2. & 3. Edw. 6. cap. 2: 4. & 5. Philippi & Mariæ cap. 3: & 5. Elizabeth. cap. 5. But, conſider whether this entring of Record, haue any vſe now.

Egyptians.

If any ſtrangers, calling themſelues, or being commonly called Egyptians, haue remained in the Realme one moneth: And if any perſon (being foureteene yeeres of age) which hath bene ſeene, or found in the fellowſhip of ſuch Egyptians, or which hath diſguiſed him ſelfe like to them, haue remained here or in *Wales* by the ſpace of one moneth, either at one time or at ſeuerall times, 1. & 2. Phil. & Mar. cap. 4: 5. El. cap. 20.

Rogues.

If any Vagabond (or Rogue) haue after 60.

dayes next after his marking through the eare, or iudgement to be ſo marked, fallen againe to Rogiſh life (being then 18. yeeres olde, or aboue:) And if any ſuch Rogue, being vpon his ſaide ſecond conuiction taken into ſeruice for two yeeres, haue departed within thoſe two yeeres againſt the will of him that by Recognuſaunce tooke him into ſeruice: And if any Rogue being conuicted in the ſecond degree, haue at any time after bene conuicted of Rogiſh life. 14. Eliz. cap. 5: 18. Eliz. cap. 3. There can be none acceſſaries to theſe two laſt felonies.

Felonies omitted. Note that ſome Felonies be here omitted, either becauſe there is none vſe of them now, or elſe for that they be for particular places, as:

Prouiſors. The felonie of Prouiſours. 13. R. 2. Stat. 2. cap. 2.

Wools. The felonie of Wools and Woolſellers, 18. Hen. 6. cap. 15. and certaine felonies in the Statutes of the Staple. 27. Ed. 3. whereof I doubt.

Powdike. The felonie of *Powdike*, 12. H. 8. cap. 11: & 2. & 3. Phil. & Mar. cap. 19.

Armed It ſeemeth alſo by 25. E. 3. cap. 2, that there was a felonie, for riding armed, &c. which (I thinke) is not ſo conſtrued now.

The Felonie of Embeſelling Records, 8. H. 6. cap. 12.

If any persons haue commaunded, counsailed, waged, or procured to bee committed anie petit treason, Murder, Manslaughter, Rape, Robberie, Burglarie, or other the felonies aforesaide. Accessaries before.

If any persons knowing the saide Felons, haue receiued, comforted, ayded, abetted, or fauoured them, before their attainder, or after. Accessaries after.

Hitherto of Felonies and their Accessaries in Lay causes, all which are punished by the paines of death, except petite Larcenie.

If any person haue maihemed another of any member, whereby he is the lesse able to fight, as by putting out his eye, striking off his hand, finger, or foot, beating out his forefeeth, or breaking his skull: And of their Accessories. Maime. *Grieuous Fine.*

If any haue committed vnlawfull assault, beating, wounding, or such like trespasse, against the body of any man: Or haue with force and against the law taken the goods of an other, or haue done any Trespasse in the landes of another. Commission of the peace. Trespasses. *Fine.*

If any Ordinarie, Archdeacon, Officiall, Sherife, Escheator, Coroner, Undersherife, Bailife, Gaoler, or other officer, haue by colour of his office, or for doing his office, taken a greater, or more excessiue reward or fee, then belongeth to him: or haue taken any fee or reward for expedition in doing his Office, or haue vnlawfully exacted any oath, or other vndue thing: Extortion. *Fine.*

Commis-

Commission of the Peace.

Eschetor. If any Escheator (other then of such a citie, borough or towne, as hath authoritie to make Escheators within themselues by letters Patents of the Queene, or her progenitours) haue taken vpon him that office in this Shire, or occupied it by himselfe, or another, and had not then in this shire, Lands, Tenements or Rents, for life at the least of twentie pounds by yeare: or haue solde, or set to ferme that office, or made any deputies for whom he wil not answere, and whose names he hath not certified within 20. dayes after into the Exchequer, 12.E.4.9.

Loose fourtie pound.

Or if any Escheator hath taken for the execution of any *Diem clausit extremum*, or other Writte in one Countie, about fourtie shillings in all: or that fourtie shillings where the lands are not founde to bee holden *in Capite*: 23.H.6. cap.17: & Fitzh.143. Or hath taken for the finding of anie office of landes (not exceeding fiue pounds by yeare) aboue fifteene shillings in all, for all the things thereof, 33.H. 8. cap.22.

Loose fourtie pound.

Loose fiue pound.

Sherifes and their Ministers, &c. If any Sherife haue letten his countie, or any his bailiwikes, hundreths, or wapentakes: or haue returned in any pannels, any bailifes, officers, or their seruants, or seruants seruants, or haue refused to let to baile (vpon sufficient sureties) any person being in his custodie, because of any action personall, or because of Endite-

ment

ment in treſpaſſe, and not being in for any condemnation, execution, vtlawrie, excommunication, ſuertie of the Peace, or commandement of any Iuſtice, or for being a vagabond: Or haue taken any obligation by colour of his office, but only to himſelfe, and vpon the name of his office, and vpon condition onely to appeare according to the writ or warrant: Or haue taken for an arreſt aboue xx. pence. Or if he, or any other miniſter, haue taken any thing, for making of any Returne or Pannel: or aboue 4. pence for the copie of a Pannel: or aboue 4. d. for the ſaid Obligation, or for any Warrant or Precept: Or any bailife aboue 4. pence for making any arreſt: or the gaoler aboue 4. pence, vpon the committing to his Ward of any perſon arreſted, or attached. 23. H. 6. c. 10. *Forfeite fourtie pounde, and looſe treble damages to the partie.*

If any Sherife, or other his miniſter, haue arreſted, or impriſoned, or cauſed any fine, or raunſome, or amerciament to be leuied of any perſon by reaſon of any enditement, or preſentment made in the Sherifes turne, or lawday, without proceſſe frō the Iuſtices of peace for the ſame firſt obtained: Or haue not brought in ſuch enditements & preſentments to the Iuſtices of the Peace, at their next Seſſions. 1. E. 4. c. 2. Sherifes, arreſting, or leuying fine for Enditements in his turne. *Looſe fourtie pound.*

If any Sherife, or any his miniſters, haue entered into his booke, any plaints in any mans name, not beeing preſent in the Court, eyther in his owne perſon, or by ſufficient and honeſt Sherifes entring of plaints and leuying amercements.

Loose fourtie shillings.

honest atturney, or deputie: Or haue entred any moe plaints then the plaintife supposeth that he hath cause of action for: or haue leuied the Shire amerciaments without booke endented betweene them and two Iustices of the Peace:

Bailife seruing warrant.

Or if the Baylife of the Hundred haue made default in warning or executing any warrant against any defendaunt in the Sherifes Court. 11. H.7.cap.15.

Fine to the king, treble damages to the partie.

Sherifes must shewe the Estreats vnder the Eschequer Seale.

If any sherife or his minister haue leuied any the debts of the Queen, without shewing to the parties the Estreats of the same, vnder the seale of the Eschequer, 42.E 3.c.9: & 7.H.4.c.3.

Sherifes to returne additions of Iurors.

If the Sherife of this Shire, or any other person (to whom it appertained to make return of any Writ) hath returned any Iuror without the true addition of the place of his abode at the time of that returne, or within a yeare next before, or without some other addition by which that Iuror might wel be known. If any Estreat of Issues hath beene gathered of any person, other then such as by vertue of the said Estreat was of right chargeable or charged therewith. 27. Eliz. cap. 7.

Fiue marks to the Queene.

Fiue marks to the partie.

Vndersherifes, clarks, & Bailifes to bee sworne.

If he that taketh vpon him to be the Vndersherife of this shire, hath not (before his exercising of that office) taken the oath of the supremacie, and the oath of his office, before the Iustices of Assise or one of them, or before the Cu-

stos

ſtos Rotulorum, or two Iuſtices of the Peace, the one being of the *Quorum*.

If any Bailife of franchiſe, deputie (or clark) of the Sherife, or Vnderſherife, or other perſon taking vpon him to returne any Enqueſt, Jury, or Tales, or to meddle with the execution of proceſſe in any court of Recorde, haue not beſore that receiued and taken the ſaid oath of Supremacie, and the oath (appointed for ſuch officer to take) beſore ſome of the ſaid Iuſtices, after this maner: *Looſe furtie pound.*

I *A. B.* ſhall not vſe or exerciſe the office of Vnderſherife (Deputie, Clarke, Bailife, &c.) corruptly during the time that I ſhall remaine therein: Neither ſhall or will accept, receiue, or take, by any colour, meanes, or deuiſe whatſoeuer, or conſent to the taking of any maner of fee, or reward, of any perſon, or perſons, for the empanelling, or returning of any Enqueſt, Iurie, or Tales, in any court of Record for the Queene, or betwixt partie and partie, aboue two ſhillings, or the value thereof, or ſuch fees as are allowed or appointed for the ſame by the Lawes and Statutes of this realme. But will, according to my power, truely and indifferently with conuenient ſpeed impanell all Iurors, and returne all ſuch Writs touching the ſame, as ſhall appertayne to bee done by my duetie or office, during the time that I ſhall remayne in the ſayde office:

office: So helpe me God.

Treble damages to the partie. If any Vnderſherife, or other of the ſaid perſons, hath committed any Acte contrary to the ſaid oaths. 27. Eli. cap. 12.

Sherife and Gaoler. If any Sherife, or Gaoler haue denied to receiue felons, by the deliuerie of any Conſtables or townеſhips, or haue taken any thing for receiuing of ſuch, 4. E. 3. cap. 10.

Fine.

Fees in liberties. In liberties, the Bailifes, Stewards, and other miniſters there, haue like fees: and puniſhments, for extortion, as Sherifes and their miniſters haue out of liberties. 27. H. 8. ca. 24.

Coroner. If any Coroner haue refuſed to doe his office vpon the view of a dead body by miſaduenture, without taking any fee therefore, 1. H. 8. ca. 7. or haue taken vpon the viewe of the body of a man ſlaine or murdered, aboue thirteene ſhillings 4. pence, of the goods of the ſlaier or murderer, if he had goods or (otherwiſe) of the towne, where he was ſlaine in the day time, and was ſuffered to eſcape. 3. H. 7. ca. 1.

Looſe fourtie ſhillings.

Looſe fiue pound

Ordinary. If any Ordinary, or his ſcribe, or regiſter, haue taken moe, or greater fees, for the probate of a Teſtamēt, or for letters of adminiſtration, then he ought to take, that is to ſay, 6. pence for the ſcribe, for writing the probate of a Teſtament, that ſhall bee brought written in parchment, & likewiſe ſixe pence for the adminiſtration, where the goods of the

Looſe tenne pound, and to the partie ſo much as is taken contrary to this acte.

the Teſtator, or inteſtate be not aboue 5. pounds: If the goods be aboue fiue pounds, and not aboue fourty pounds, then two ſhillings 6. pence for the Ordinary, and xii. pence for the ſcribe. If they exceede fourty pounds, then two ſhillings ſixe pence for the Ordinarie, and two ſhillings ſixe pence to the ſcribe, or elſe one peny for euery ten lines at ten inches length, at the ſcribes election: the like ſhall be giuen for euery copie of a Teſtament or Inuentarie, or elſe after the rate of lines as before, 21. H. 8. cap. 5.

If the Ordinary haue cited any man to beare witneſſe in the Spirituall court: Or haue exacted any oath in any cauſe, other then Teſtamentarie, or Matrimoniall. *Vnder paine of Attachment.*

If any Parſon, Vicar, or Curate, haue taken aboue foure pence for entering in the Church-booke the licence of a ſicke perſon to eate flesh vpon the Fiſhdayes: 5. Eliz. cap. 5. Or aboue two pence for regiſtring of a Teſtimoniall of anie Seruant departing from one place to another, 5. Eliz. c. 4. Parſon. Vicar. Curate. *Fine.*

If anie Spirituall perſon (or any other for him) haue taken Mortuarie (or corpes preſent) or anie thing for the ſame in any place, where the ſame was not vſed to bee giuen before the one and twentieth yeare of King Henrie the eyght: or haue taken (in places where Mortuaries were then vſed) any thing for a Mortuarie where the goodes of the dead Mortuarie.

Forfeite so much as hee shall take ouer: and loose fourtie shillings to the partie grieued.

dead person were vnder ten marks: or more then three shillings foure pence therefore, where the goods were of the value of ten marks, and vnder xxx. li. or aboue sixe shillings eight pence therefore, where the goods were vnder xl. li: or aboue ten shillings where the goods were aboue xl. li. 21. H.8. cap.6.

Clarke of the Peace.

Fine.

If the Clarke of the Peace haue taken aboue twelue pence for the inrolling of the bargaine and sale of anie land, not exceeding xl. shillings by the yeere: or aboue two shillings sixe pence, if the land exceede that value by the yeare, 27. H.8.ca.16: Or haue taken aboue two shillings in all, for any licence and Recognusance of a Badger, Drouer, Kidder, or Lader, and for the registring thereof, 5 El.cap.12. Or haue taken aboue twelue pence for a Recognusance of him that taketh a Rogue into his seruice for one yeare, 14. El.ca.5.

Iustices clarke

Fine.

If the clarke of any Iustice of Peace haue taken aboue twelue pence for any Recognusance of an Alehouse keeper, or Tipler, 5.E.6. cap. 25.

Clarke of the Market.

If the Clarke of the market hath taken any common fine, to dispence with faultes: or hath ridden with moe then sixe horses, or hath tarried longer in the countrey then the necessitie of his businesse required. 13. R. 2. cap.4.

Offence 1 2. li. 2 10. li. 3 20. li.

If

If any officer haue in any Towne taken Scauage or Shewage (that is to ſay) any thing for the ſhewing of wares, merchandize that bee truely cuſtomed to the Queene before, 19. H. 7. cap. 8. Scauage. *Looſe twentie pound.*

If the Maior of this towne of *Maidſtone*, (and ſo of other townes, in other Shires) haue taken aboue one i. d. for ſealing a buſhell meaſure, or aboue ob. for any other meaſure: or aboue i. d. for ſealing an C. weight, or aboue ob. for halfe C. weight, or aboue a farthing for any leſſe weight. 7. H. 7. ca. 3: & 11. H. 7. cap. 4. Seale weights. *Looſe fourtie ſhillings.*

Sundry other fees of Officers there be, as of Alnageours, Gaugeors, Serieaunts at Armes, and others whereof there is not ſo common vſe, and therefore I omit them. *Fees omitted.*

If any Purueiour of the Queenes Maieſtie haue taken any thing of the value of xl. s. or vnder, without readie payment therefore made: If any Conſtable or Burſholder haue not (vpon requeſt made) aſſiſted the owners to reſiſt the Purueiors ſo taking: And if any of the Queenes officers haue procured any to bee arreſted or vexed for ſuch reſiſtance, 20. H. 6. c. 8: & 23. H. 6. cap. 2. Purueyors. Looſe *Double of the thing taken.* *Double damages.* *Looſe twentie pound.*

If any Purueiour haue taken, or felled, any timber trees (meete to be barked) but onely in barking time, except it were for the reparatiõ or *Looſe xl. s. for eatch tree.*

building of the Queenes houses or ships: Or haue taken any more then the very timber of such trees, 5. Eli. cap. 8.

Two yeeres prisonment: treble damages: and ransome.

If any such Purueior haue taken any thing of any man, to the end to spare him: or haue taken come by any other measure then by the striked bushel, or by any more then eight such bushels to the Quarter: or haue taken carriage therefore, without making ready paiment, 25 Ed. 3. ca. 1: 36. Ed. 3. ca. 3: & 1. H. 5. ca. 10.

One yeeres prisonment. Fiue pounde to the Queene and v. li. to the partie.

Vniuersities.

Of Purueiors within fiue miles of *Oxenford* or *Cambridge*, See 2. & 3. Phil. & Mar. cap. 15: 14. Eliz. cap. 11.

Informer.

Lose x. pound & stand on the the pillorie.

If any common Informer or Promoter (as he is commonly called) haue compounded or agreed with any person for any offence against any penall lawe, without the order or consent of some of the Courts at Westminster, or haue willingly delaied or discontinued his sute once commenced, 18. Eli. ca. 5: & 27. El. ca. 10.

Huy and cry.

Fine.

If any man haue raised huy and cry without cause, or (it being raised) vpon good cause haue not beene ready at the commaundement of the Sherife or at the huy and cry of the countrey, to pursue and arrest Felons, or such as haue daungerously hurt any man: And if the Sherife, or any Bailifes haue not followed such huy and cry

cry with horse and armour. W.1. 3.Ed.1.ca.9: 3.Ed.1.*Officium Coronatoris:* Stat.Winchest. 13.E.1.

If the Watch in euery borough and towne, haue beene kept from Sunne rising to Sunne setting, betweene Assention day and Michaelmas day, to arrest Straungers that passe by in the night season. Statut. *Winton.* 13. Edw.1. Watch. *Fine.*

If any lord of the Soile haue not enlarged the high way from market to market, so that no dike, bush nor tree (except great trees) be within two hundreth foote of each side thereof: Statut. *Winchest.*13.E.1. Highwayes.

If any persons (except the Queens seruants and officers, in doing her seruices, and their company, aiding them in that behalfe) haue riden or gone armed, by day or night: or haue brought force in affray of the people, before the Queenes Justices, or otherwise: Stat. *Northampton*,2.Edw.3.cap.3. Ride or go armed. *Imprisonment and losse of the Armour.*

If any person arrested, or imprisoned for Felonie, haue bene negligently suffered to escape, 1.R.3.cap.3. Escape by negligence. *Fine.*

If anie bee a Barettour, or a common quarrellour, or otherwise of euill name and fame, 34.Edw.3.cap.1: Or a mainteiner of quarels or an Embracer of Juries, 33. H.8.cap.10: & 37.H.8.cap.7: & 38. Edw.3.cap.13. Barrettors Mainteiners. Embracers. *Prisonment, and good Abearing. Ten times so much as hee taketh, or a yeares prisonment.*

Barettour.

The word (Baretor) may be deriued either of the French *Barat* (and so it seemeth to bee taken in the Statute of Champartie, W. 2. ca. 49.) signifying deceit, so that Barettor should notifie a deceiuer: or els of the Latine *Baratro* (or *Balatro* as some write it) which it betokeneth a vile knaue or vnthrift, and (by a *Metaphore*) a spot in the common wealth: But whatsoeuer the word doth properly denote, common vse (*Quem penes arbitrium est, & ius, & norma loquendi*) taketh it for a common quareller, or maintainer of *Quarels*: & in that sence I thinke it to stand in the old statute called *Ragman*, and it meaneth him that medleth in the quarels of other men, whether it be by fight, or by suite in lawe.

Champartours.

Fine.

If any be a Champartour, that is to say, one that moueth pleas or suites, or causeth or procureth them to be moued, at his owne costes, to the end to haue part of the land, or other thing in variance, 33. E. 1.

Iurour.

Prisonment, and ransome.

If any Iuror in any Enquest heere, haue taken any thing of any man to make his presentment fauourable,

Liueris of companies and badges.

If any person haue by himselfe, or other for him, giuen any liuery of signe of company, or badge, or retained any man, other then his household seruant, officer, or learned man in the Law, 1. H. 4. ca. 7: 2. H. 4. ca. 22: & 8. Ed. 4. cap. 2.

Prisonment, fine & ransome.
V. li losse to the retainor, & the like to the retained. } *for each moneth.*

If

If any company of men (other then men of fraternities, and men of artes in cities and boroughs) haue made any one generall suite of cloth, hoods or hats amongst them, to be knowen by, 7. H. 4. cap. 14. *Loose fourtie shillings.*

If any person haue (within these three moneths) aduisedly, and with a malicious intent against the Queenes Maiestie, of his owne imagination spoken any false seditious and slanderous newes, or sayings of the Queenes Maiestie: or haue (within the saide time) aduisedly, and with a malicious intent, spoken any such newes or tales, to the slaunder and defamation of our said Queen, of the reporting or speaking of any other, 23. Eli. cap. 2. False newes. *Loose his eares, or pay 200. li. for the first offence.* *Loose one eare, or 200 marks for the first offence.*

If any person haue by writing, or open speach notified, that the eating of fish, or forbearing of flesh, vpon any dayes, now vsually obserued as fishdaies, and mentioned in the statute (5. Eliza. ca. 5.) is of necessitie for saluation of soules, or is the seruice of God, otherwise then as other politike Lawes be, 5. Eli. cap. 5. *Prisonment.*

If any person haue falsly and deceitfully gotten into his possession any money, or any other thinges of anie other mans, by colour of false priuie token, or of counterfaite letter, made in another mans name. 33. Hen. 8. cap. 1. False tokens or letters. *Suffer any corporall peyne, except death.*

If any haue vttered themselues to be Proctours, hauing no sufficient authoritie, or Vagabonds and Rogues.

haue gone about idle, vsing craftie games, or pretending skill in Palmestry, telling of destinies, or other abused sciences: or (that being whole and able in body, and not hauing land, Master, nor meane to get their liuing) can giue no reckoning howe they gette their liuing lawfully: If any Fencers, Bearwards, common plaiers in Enterludes, or minstrels (not belonging to any Baron or personage of greater degree) Juglers, Pedlers, Tinkers, or petit chapmen, haue wandred about without licence of two Justices of Peace: If any common labourers (being able in body) haue vsed loytering, or refused to worke, for the appointed wages: If any haue counterfaited licences, or pasports, or haue vsed such, knowing them to be counterfait: If any scholers of *Oxford* or *Cambridge*, haue gone about begging, not authorized vnder the Vniuersitie seale, or shipmen, pretending losse by sea, or deliuered prisoners begging for their fees, or trauelling to their Countrey or friends, not beeing lawfully licenced: If any seruaunt departing out of seruice, be found with a counterfait Testimoniall. And if any poore body haue traueled from home towards *Bath* or *Buckstone*, without lawfull licence, or, being prouided for in his or her parish, haue notwithstanding secretly wandred abroad without licence: For all these bee rogues and vagabonds. 14. Eliz. cap. 5.

Whipped and boared, thorow the eare, for the first offence.

If

If any Constable or Borsholder, haue not done his best endeuour to apprehend such Rogues as haue begged or made abode within their limites, or haue wilfully suffered any of them to escape punishment: And if any person haue giuen harborow or other reliefe to any such Rogue: If any person haue hindered the execution of the statute concerning Rogues, or haue made rescous to any person endeuouring the execution thereof, 14. Eli. c. 5: & 18. Eli. ca. 3.

Officers not punishing Rogues. *Lose a noble for each Rogue.*

Giuing reliefe to Rogues. *Fine not exceeding xx. shillings.*

Disturbing of the execution of the law against Rogues. *Prisonment, and losse of fiue pound.*

If any persons (to the number of three or aboue) haue bene riotously assembled, to beate any man, to enter vpon a possession, or to doe any such vnlawfull act, and haue done it in deed, or attempted to doe it: Or haue bene assembled together in Routes for any common quarell: Or otherwise vnlawfully against the Queenes Maiesties Peace. 2. H. 5. ca. 5. Commission vnder the name of Conuenticles.

Riots, Routs, vnlawfull assemblies. *Prisonment and Fine.*

If any persons (aboue the number of two, and vnder twelue) beeing assembled, haue intended vnlawfully with force to murder or slay anie of the Queenes Subiects: Or to cutte or cast downe anie inclosure, or bankes of anie Fish-ponde, or conduite head, or pipe, or to doe anie the deedes (mentioned in vnlawfull assemblies before) and haue not departed vpon procla-

Rebellious assemblies. *One yeeres prisonment, and treble damages to the partie grieued, and costes.*

mation, but haue attempted to doe any of those things.

Three moneths prisonment.

Or if any person (being moued to make any rebellious assembly) haue not within 24. houres after disclosed the same to a Iustice of the Peace, or to the Sherife: Or if any person haue stirred or procured any other to make such assembly, 1. Mar. parl. 1. cap. 12: 1. Eliz. cap. 17.

Fine.

Lying in await

If any haue lien in await, to maime, or kill any other, Commission.

Forcible entries.

Prisonment and fine.

If any haue entred into lands or possessions with force, or entring peaceably, haue holden the same with force, 8. H. 6. cap. 9.

Cut ponde head, fishe: hunt Deere: take Hawkes, or their egges.

If any person haue vnlawfully broken, or destroied the head or damme of any ponde, mote, stewe, or seuerall pitte wherein fishes are put by the owner thereof: or haue wrongfully fished in anie of the same, to the intent to take away the fishe against the owners will: Or

Three moneths prisonment, and bound to his good behauiour for seuen yeeres.

haue wrongfully entered into anie parke or other grounde, before this Statute inclosed, or after this Statute, (by the licence of the Prince) to be inclosed and vsed for keeping of Deere, and haue wrongfully hunted, driuen out, hurt or killed, any Deere there: Or if any person haue vnlawfully taken away anie Hawke, or the egges of anie Hawke out of the woods or groundes of anie other person. 5. Elizab. cap. 21.

If

If any perſon haue taken, or cauſed to be taken, vpon his owne, or other mens ground, the egges of any Falcon, Goſhawke, Lanner, or Swanne, or haue taken any Eirer Falcon, or Goſhawke, Tercell, Lanner or Lanneret, or haue purpoſely driuen them out of their couerts: or haue borne any Hawke of the breede of *England*, called a Nieſſe Goſhawke, Taſſet, Lanner or Lanneret, 11. Hen. 7. cap. 17.

Take Hawkes egges: take Hawkes, or driue them away.

One yeere and a dayes priſonment and fine.

Looſe ten pound.

Loſſe of the Hawke.

Nieſſe Hawke.

If any Artificer, Labourer, or other Lay man, not hauing lands or tenements of xl. s. by yeere, or any ſpirituall perſon not aduaunced to ten pounds liuing by the yeere, haue kept greyhound, hound, or other dogge to hunt: or haue vſed ferrets, nets or other engines, to take or deſtroy Deere, Hares, Conies, or other Gentlemans game. 13. R. 2. cap. 13.

Dogs, nets ferrets.

One yeeres priſonment.

If any perſon haue traced, killed and deſtroyed any Hare in the ſnowe. 14. Henr. 8. cap. 10.

Trace Hare.

Looſe a noble for each Hare.

If any perſon whatſoeuer, haue taken, or killed any Pheſants or Partriches, with any maner of net, or other deuiſe whatſoeuer, vpon the freehold of any other, without ſpeciall licence, or in the night time, except it were vnwillingly, by lowbelling or tramelling, who alſo did then & there preſently let them go againe: Or if any perſon haue hawked, or with his Spaniels hũted in any ground (not

Take Pheſants or Partriches.

Looſe *Twentie ſhillings for each Pheſant.* *X. s. for each Partrich.*

Hawking in corne.

(not being his owne) where any corne or graine did then grow, or before it was shocked, or copped, without the consent of the owner of such corne or graine. 11.H.7.ca.17:& 23.El.c.10.

Loose fourtie shillings.

Vsurie.

If any person haue by himselfe or any other, solde any merchandizes or wares to any other, and haue within three moneths next after that, by himselfe or by any other bought the same, or any part thereof againe, vpon a lesser price, knowing them to be the same: Or if any person haue by any corrupt bargaine, mortgage, or other meanes, taken in gaine aboue the rate of ten pounds for the hundred, for one whole yeeres forbearance, and so after that rate, for more or lesse, 37.Hen.8.cap.9: 13.Eliz.cap.8. & 27.Eliz. cap.11.

Loose the treble value: and bee prisoned and fined.

Forestallers. Regrators. Ingrossers.

If any haue within these two yeres forestalled, regrated, or ingrossed vnlawfully.

Forestaller. A Forestaller is he, that buieth or causeth to be bought, or maketh contract or promise for the hauing or buying of any victual or wares, comming by land or water towards any Faire or market to be solde, or comming from beyond the Sea towards any Citie, Port, Hauen, Creeke, or rode of this Realme, to be sold, before the same shalbe in the Faire or Market, Citie, Port or Hauen readie to be sold: Or that by any meanes maketh

Offence

1 *Loose the goods, and be prisoned two moneths.*

2 *Loose double the goods and bee sixe moneths prisoned.*

3 *Loose the goods, and stand on pillorie.*

keth motion to any perſon for enhancing the price of the ſame: Or that doeth diſſwade, mooue, or ſtirre any perſon (comming to the Market or Faire) to forbeare to bring any of the ſame to any Faire, Market, Citie, Port, or Hauen to be ſold.

A Regrator is hee, that regrateth or getteth into his poſſeſſion, in any Faire or Market, any corne, wine, fiſh, butter, cheeſe, candles, tallow, ſheepe, lambes, calues, ſwine, pigges, geeſe, capons, hennes, chickens, pigeons, conies, or other dead victual whatſoeuer, broght to any Faire or Market to be ſolde, and ſelleth the ſame againe in any Faire or Market kept there, or within foure miles thereof. *Regrator.*

An Ingroſſer is he, that ingroſſeth or getteth into his handes by buying, contract, or promiſe, taking (other then by demiſe, leaſe or graunt, of land or of tithe) any corne growing in the fieldes, or other corne or graine, butter, cheeſe, fiſhe, or other dead victuall, within *England*, to the intent to ſell the ſame againe. But ſuch as buy barley or oates (without foreſtalling) and turne the ſame into malt or otemeale, and ſell it againe: and ſuch victuallers of all ſortes, as buy victuall (without foreſtalling) and ſell it by retaile againe, and Badgers and Drouers (being lawfully licenced and not abuſing their licences) are excepted, So be all buyers of wines, oiles, ſpices, *Ingroſſer.*

spices, and other forraine victuals brought from beyond Sea hither, except fish and salt only. 5.E.6.cap.14: 5.El.c.12: 13.El.cap.25.

Seed corne.

Loose the double.

If any person haue within these two yeeres bought Corne in any Faire or Market for change of his seede (hauing then sufficient for his house, and for sowing his ground for a yere) and did not bring thither (if he might) so much as he did so buy, and did not the same day sell it after the price then going, 5.E.6.cap.14.

Making of Malt.

Loose twentie pence for euery quarter.

If any person haue (at any time within this yeere, the moneths of June, July, and August only excepted) made any Barley malt, that was not the time of three weekes (at the least) in the fat, floore, steeping, and sufficient dying: and if in any of the saide three moneths, and was not seuenteene dayes (at the least) in the fat, floore, steeping, and sufficient dying.

If any person hath within this yere mingled any malt not sufficiently made, (or made of mowburnt or spired barly) with other good malt, and after put the same to sale.

If any person hath within this yeere put to sale any malt not sufficiently well troden, rubbed and fanned, whereby halfe a pecke of dust, or more, may be fanned out of one quarter thereof. But this Acte extendeth not to malt made for the prouision of a mans owne house or familie. 2.& 3.E.6.ca.16: and reuiued 27.El.cap.14.

If

If any perſon haue within theſe two yeeres bought Oxen, Routs, Steeres, Kine, Heifers, Calues, Sheepe, Lambes, Goates or Kids, liuing, and ſold any of the ſame againe aliue, before he hath kept them fiue weekes, 5.E.6.c.14. Liue cattell. *Looſe the double.*

If any perſon (not hauing the Queenes ſpeciall licence) haue bought or ingroſſed tanned leather, to ſel it againe, vnleſſe he be an Artificer that maketh wares of ſuch tanned leather, and worketh it in the ſame, 5.E.6.c.15:1.El.c.9. Tanned leather. *Looſe the priſe thereof.*

If any perſon haue bought any woollen parne, and haue not made cloth thereof, 8.Hen. 6.cap.5. Or haue bought any wooll, but of the owner of the Sheepe, and of the Tithe, 14.R. 2.cap.4. Woollen yarne. *Looſe the value thereof.*

If any butcher or other perſon, haue killed any yong ſuckling Calfe, to be ſolde whole, or by retaile, which was calued betweene the firſt of January, and the firſt of May, 24.H.8.cap. 7:14.El.cap.11. Or haue killed any Weinling, Bullocke, Steere, or Heifar (vnder the age of two yeeres) to be ſolde whole or by retaile: *ibidem* cap.9. Or haue killed any Calfe to ſell, being vnder fiue weekes olde, 5.El.cap.8. Sucking calues. *Looſe a noble for each calfe.* Weinlings vnder 2.yeres. *Loſe a noble for ech oxe.* Calues vnder fiue weekes old. *Looſe a noble for each calfe.*

If any perſon haue willingly (betweene the firſt of March and laſt of June in any yeere) taken away, or deſtroyed the egges of any wildefoule (vſed to be eaten) from the place where they did lay Egges of wildfoule. *Priſonment for a yeere and looſe after a rate for each egge.*

lay them, 25. H. 8. ca. 11: 3. E. 6. ca. 3.

Milch kine & calues.

Loose xx. s. for euery moneth for each cow. and the like for each calfe.

If any person (feeding aboue 120. share sheepe for the most part of the yere, vpon his groundes that be meete for milchkine, and wherein no person hath any commune) haue not for euery 60. such sheepe reared vp one calfe, during the time of keeping such sheepe, 2. & 3. Phil. & Mar. ca. 3: 13. Eliz. cap. 25. Or if any person (feeding vpon his seuerall pastures aboue 20. oxen, rontes, steeres, scrubs, heifares, or kine) haue not for euery tenne such beastes kept one milch Cow, and for euery two kine weaned and reared vp yerely one Calfe, except it chance to die. *ibid.* He that feedeth such sheepe or beasts, only to be spent in his house, is excepted. *ibidem.*

The like peine, as the last before.

Salmons.

If any person haue taken any Salmons, betweene the feastes of the Natiuitie of the blessed virgine Mary, and of S. Martine, in any riuers or waters: Or haue taken yong Salmons at any Mil poole, or other place, betweene the midst of Aprill and Midsommer: or haue at any time cast into any waters any net, by which the frie of any fish may be taken. W. 2. cap. 48: 13. Ri. 2. c. 19: 17. R. 2. cap. 9.

Offence
1 *Burne the nets.*
2 *Three moneths prisonment.*
3 *One yeeres prisonment.*

Frie of fish.

Frie of fish.

If any person haue with any net, or meane, taken and killed any frie or spawne of any fish, in any wear, fludgate, streame, or riuer, (salt or fresh) or at the taile of any Mill: or haue taken

taken there any Salmons or Trouts, out of ſeaſon, that is, being kippers, or ſhedders: Or haue taken and killed any pickerell vnder ten inches fiſh in length, or Salmon vnder 16. inches, or Troute vnder 8. inches, or Barbell vnder 12. inches: or haue fiſhed in any the ſaide places with any nette, but ſuch whereof euery meſh was 2. inches and a halfe broade: But angling is excepted, and ſo is the taking of Smelts, Loches, Minews, Binbeads, Gudgeons, and Eeles, in places onely where they haue bene vſed to be taken, 1. El. ca. 18: 14. El. cap. 11. & 27. El. cap. 11.

Salmons. Trouts. *Looſe the fiſh, and xx s. for each offence.* Aſſiſe of fiſhes. Nets. Angling.

If any Butcher, Fiſhmonger, Inholder, Tipler, Brewer, Baker, Poulter, or other ſeller of victual, haue not ſold the ſame at reaſonable prices, and for moderate gaines, 23. Ed. 3. cap. 6: 13. Ri. 2. cap. 8. If any Beerebrewer, or Alebrewer haue ſolde their drinke at higher prices then haue bene appointed by the Iuſtices of Peace, 23. H. 8. ca. 4.

Victuallers prices reaſonable. *Looſe the double of that he receiued.* Brewers. *Looſe ſixe ſhillings for euery barrell, and ſo after that rate.*

If any Butchers, Bakers, Brewers, Poulters, Cookes, Fruiterers, or any myſterie of any of them, haue conſpired, or taken any oath, or promiſe, not to ſell but at prices certaine agreed betweene them. 2. Ed. 6. 15.

Victuallers conſpiring,

Offence { 1 *Tenne pounds, or twentie dayes priſonment.* 2 *Twentie pound, or ſtand on pillorie.* 3 *Fortie pound, or looſe one eare and be infamous.*

If any

Corrupt victuall. *Fine.*

If any Butcher haue solde, or offered to sell, Swines flesh mezeled, or any flesh that died of the morreine: Or if any other Victualler haue solde, or offered to sell any corrupt or vnwholesome victuall: *Stat. Pistorum. cap. 7.* 51. H. 3.

Transport corne, beere, butter, cheese, Seafish, hering, wood. *The owner of the vessell to loose it.* *The owner of the victuall, to loose the double value.* *The maister and maryners, to loose their goods, and to haue a yeeres prisonment.*

If any person haue, against proclamation thereof made, transported or carried out of this Realme, any Corne, Graine, or Malte, growing or made here: or any Beere, Butter, Cheese, or Wood in any vessell (except to *Barwicke*, or the Marches thereof) without sufficient authoritie, or any Seafish, or Herring not taken by a naturall borne subiect here: or haue by any meanes conueied, or willingly consented to conuey any of the said things, to any vessell being on the sea, or in any place or Hauen of this Realme to be transported ouer Sea, or into *Scotland*, without sufficient authoritie: or if any person hauing licence to conuey any of the said things, haue fraughted or laden his vessell, or any part thereof, at any mo places then one onely: 1. & 2. Phil. & Mar. cap. 5: 13. Eliz. cap. 11. & 13.

Butter and Cheese. *Forfeit the double value.*

If any person haue bought (to sell againe) any Butter or Cheese, vnlesse it bee in open Faire or Market by retailing it after the weie of Cheese and barrell of Butter, or after a lesse quantitie: or vnlesse it be Victuallers for that which shall be retailed or spent in their houses.

3. Edw.

3.Edw.6. cap.21: & 14 Eliz.cap.11: & 27.Eliz.cap.11.

If any perſon haue packed Fiſh in barrels, and haue mixed the countable Fiſh with the ſmall Fiſh. 22. Edw. 4. cap. 2: 11. Hen. 7. cap. 23: Or haue bought of a ſtranger borne, or out of a ſtrangers bottome, any Herring (other then ſuch as commeth hither by reaſon of ſhipwracke) not ſufficiently ſalted, packed and caſked, 5. El. cap. 5.

Fiſh packed. Bought of Strangers. *Looſe 3. 4. d. for each barrell.* *Looſe the Herring, or the value.*

If any haue brought, ſent, or receiued into any ſhippe or bottome, any rammes, ſheepe or lambes, being aliue, to be conueied out of the Queenes dominions: or if any perſon haue procured the ſame. 8. Eliz. cap. 3.

Rammes, Sheepe Lambs tranſported. Offence { *Looſe his goods and his left hand.*

If any perſon haue dried in this Realme, to be ſolde, any Fiſh taken or brought hither by any ſtranger borne. 13. Eliz. cap. 11.

Drying of fiſh brought by ſtrangers. *Looſe the fiſh, or the value.*

If any ſtranger borne, haue brought into this Realme, any Cods, or Lings, packed in barrels, or other caſkes. 13. El. cap. 11.

Cods or Lings in caſke. *Looſe the fiſh, or the value.*

If any perſon haue (within this yeere) taken vpon him to ſet price, to take toll, or to demaund any taxe vpon any Seafiſh taken by any ſubiect of the Queene in their owne veſſels: or if any

Set price or taxe vpon Seafiſh. *Looſe the value of the fiſh.*

Purueiour.
Forfeit the double value.

Purueior or other perſon haue within that time, by colour of any Commiſſion taken any ſuch Herring, or Seafiſh (other then the accuſtomed compoſition fiſh for *Iſland*) againſt the will of the bringer in thereof: Or if any perſon haue (within that time) cauſed to bee laden and caried in any veſſell (whereof any ſtranger borne, is wholy or partly owner or maſter) any fiſh, victuall, or other thing, from one Port or creeke of this Realme, to any other of the ſame: Or if any perſon haue within that time brought in this Realme, or any part thereof, other then into the Ile of *Man*, or into *Wales*, any wine comming out of the dominions of *France*, or any *Tholouſe* Woad, but onely in ſuch veſſel whereof ſome Subiect of the Queene was then owner, or part owner. 5. E. ca. 5: & 27. El. cap. 11.

Seafiſh and herring.
Looſe the goods ſo laden, or the value.

Wine, or Woad in a ſtrange bottome.
Forfeit all the Wine, and Woad.

Wines retailed.
Looſe 3. s. 4. d. for each gallon, and ſo after that rate.

If any perſon authorized to ſell Wine by retaile, haue within this yeere ſold the ſame aboue the prices therof limitted by the Queenes Proclamation, 5. El. ca. 5: & 27. El. cap. 11.

Not aboue ten gallons of Wine.
Loſe ten pound.

If any perſon, not being the ſonne of a Peer (or Baron) of this Realme, nor hauing landes or profits to the yeerely value of one hundred markes, or goods to one thouſand markes, haue kept in his houſe any veſſel of *Gaſcoigne*, *Guion*, *French*, or *Rochell* Wine, containing aboue ten gallons, to the intent to ſpend the ſame in his houſe,

house, 7. Edw. 6. cap. 5.

If any Inholder, Tauerner, Alehouskeeper, common Victualler, common Cooke, or common Table keeper, hath vttered, or put to sale any kinde of flesh victuall, vpon any day in the time of Lent, or vpon any Friday, Saturday, or other day appointed by former lawe to be fish day (not being Christmas day) except it be to such person, as (resorting to such house) had lawfull licence to eate the same according to the statute therof made the fift yeere of her Maiesties raigne, 27. El. cap. 11.

Vtter flesh.
Loose 5. pound, and haue ten dayes prisonment.

If any person (other then by reason of age, sickues, childing, or licence) haue within this yere, eaten flesh in Lent, or vpon any fishday obserued by the customs of this Realme, 2. Ed. 6. cap. 19: & 5. Eliz. cap. 5.

Eate flesh.
Loose 3. li. or haue 3. moneths prisonment.

If any common brewer, baker or tipler, haue broken the assise of bread, beere, or ale: And if any stewarde of *Leete*, or officer in market Towne, haue taken any fine for breach of the assise of bread or ale, in such cases, where corporall punishment is appointed, 13. R. 2. cap. 8.

Assise of bread and ale.
Fine.

If any person haue bought or solde by any vnlawfull weights or measures: or if any person haue bought or solde in any citie or Market, with any weight or measure that is not lawfully marked or signed: 11. Hen. 7. c. 4. Or haue bought come by heaped measure in any place

Weights and measures.
Offence
1 *Loose a noble.*
2 *Loose a marke.*
3 *Loose xx. s. & stand on pillorie.*

(except within ſhipboord) or haue vſed double meaſure, the one to buy, the other to ſel with, 15. R. 2. c. 4: 11. H. 7. cap. 4: 5. E. 3. *de Piſtor.*

Common weights and meaſures.

If they of the towne where the kings Standerd is appointed to remaine, haue not their common weights and meaſures ſigned, or haue not thereby ſigned weights and meaſures to all that haue required the ſame: And if the head officers of Market Townes haue not twiſe yerely made view and examination of weights and meaſures there, 11. Hen. 7. cap. 4.

Fine & amerciament.

Veſſell for Ale, Beere.

If any veſſell for Beere or Ale haue bene ſolde or put to ſale, being made of vnſeaſonable wood, or not hauing thereupon the marke of him that made it: Or if any barrell for Beere containe not of the Queenes ſtandard 36. gallons: the kilderkin 18. gallons: the ferkin 9. gallons: euery barrell of Ale 32. gallons: the kilderkin 16. gallons, and euery ferkin 8. gallons: 23. Hen. 8. cap. 4.

Looſe 3 ſhillings foure pence.

Veſſels for wine, hony, oyle, herring, Eeles, Salmon.

If any haue made or brought into this Realme, any tunne of Wine, not containing 252. gallons: or pipe not containing 126. gallons: or tertian not containing 82. gallons: or hogſhead not containing 63. gallons: or butt of Malmeſey not containing 126. gallons: Or barrell of herring not containing 32. gallons of Wine meaſure: Or barrel of Eeles not containing two and fourtie gallons: or butte of Salmon not containing 84. gallons: or any kilder-

Looſe the wine, hony, oyle and fiſh.

kins

kins tertian, firkins or rundlets, but after the same rate. 2.Hen.6.cap. 11: 1.R.3.cap.13: & 28.Hen.8.cap.14.

If any haue made any vessell of sope, that being emptie cõtaineth not 32. gallons for the barrel, 16. for the halfe barrel, & 8. for the ferkin: or waieth aboue 26. li. the barrell, 13. li. the halfe barrel, or 6. li. & a halfe the ferkin, 23.H.8.c.4. Vessels of sope. *Loose 3.s. 4.d. for each one.*

If any Millers haue taken toll by heaped measure. 31.Ed.1. *de Pistor. & Braciat.* Toll dish. *Fine.*

If any Artificers, workemen or labourers, haue conspired or promised together, or made any oathes, that they will not doe their workes but at a certaine price or rate, or but at certaine times, or but a certaine worke in a day, or that one of them shall not take vpõ him to finish that which another hath begun. 2.Ed.6.cap.15. Artificers conspiring. Offence. 1 *Ten li. or haue twentie dayes prisonment, with bread and water.* 2 *Twentie li. or stand on pillorie.* 3 *Fortie li. or loose one eare, and be infamous.*

If any person doe vse any arte or manuel occupation, (vsed in the fift yeere of this *Queene*) which hath not bene brought vp therein seuen yeeres (at the least) as an apprentice: or hath set any to worke in it, which is not a workeman, or a iourneyman by yeere, or hath serued as an apprentice. 5.El.cap.4.

If any Arrowhead Smith haue not wel boiled, hased and hardened at the point with steele, and marked with his marke, such heads of arrowes & quarrels, as he hath made. 7.H.4.c.7. Arrowhead smiths. *Loose the heads & be prisoned, & make fine.*

Tanners.

If any perſon (during ſuch time as hee vſed the myſterie of Tanning of any hide of ſkinne of Oxe, Steere, Bull, Cow, Calfe, red or fallow Deere, Goate, or Sheepe) haue vſed alſo the myſterie of a Shoomaker, Currier, Butcher, or of any Artificer vſing the cutting or worſking of ſuch Leather,

Looſe all the Hides & skins, tanned by him.

If any perſon haue gaſhed or cut the Hide of any Bull, Oxe, Steere or Cow, whereby it is impaired: or if any Tanner haue put to ſale any ſuch Hide,

If any perſon (other then ſuch as at Michaelmaſſe 1559. had freeholde of fourtie pound by the yeere, or had then any Tanhouſe, and did occupie tanning of Leather, or hath bene an apprentiſe or taught as a hired ſeruaunt ſeuen yeeres to a Tanner, or hath bene wife to a Tanner, or the ſonne of a Tanner, and brought vp foure yeeres in that arte, or the ſonne or daughter of a Tanner, or ſuch as hath married the wife or daughter of a Tanner that left to the ſame his Tanhouſe and Fats) hath tanned any Leather, or hath taken any profite by the tanning thereof.

Looſe al the leather tanned by him.

If any Tanner haue ſuffred any Hide to lie in the Limes longer, then til the haire falleth off, or may be taken off, or haue vſed any other, then Lime, Culuerdung, Hendung, colde Water, Moſe of cold water, & Okenbarke, in his Tanning, or haue ouerlimed any Hides in the pits,

Forfeit the Hides.

or

or put them in vessels before the lime be perfectly wrought out, or haue suffered his Leather to be frozen with the Frost, or to be parched with the fire or the Sunne: Or haue tanned any rotten Hides, or wrought them negligently in the Wose, or haue not renewed the Wose so oft as neede was: Or haue not suffered the Hides (for vtter sole & cloute Leather) to lie in the Wose xii. moneths, & for the vpper Leathers nine moneths: Or hath not sufficiently tanned any Hide: Or hath tanned any hide of Oxe, steere, or cow, otherwise then whole, and without cutting any part thereof away, except three or foure Bends ouerthwart for cloute leather: Or haue tanned any Bull hide, Horse hides, or Sheepe skinne: Or hath put any of them to sale, being tanned. *Loose the hides, or the value.*

If any person haue put to sale any tanned leather (red and vnwrought) vnlesse it be sufficiently tanned and dried, and vnlesse it be in the places appointed for it, in open Faires and markets, and vnlesse it be first searched and sealed: Or haue departed with the hide of Oxe, Steere or Cow, but onely whole, without any part cut off except Bends for clouting leather, as before. *Loose the hides or value.*

If any person haue bought, contracted for, or bespoken any rough hide, or calues skinnes in the haire (except salt hides for the vse of shippes) but such persons onely as shall tawe the same: or shall and may by this acte, tanne the same: Or haue bought or bespoken any tanned *Lose al the hides and skins, or the value.*

leather, not wrought into made wares (other then neckes or shieds of sadlers or girdlers) but such persons onely, as will conuert and worke the same into made wares. 5. Eliz. cap. 8.

Curriers.

If any Currier haue curried any leather, but in his owne house, and that being in a corporate or market towne: Or haue curried any leather not well tanned, or not thoughly dried after his wet season: Or haue vsed in his wet season any deceitfull meanes to corrupt the same: Or haue curried vtter sole leather with any other stuffe then hard tallow, or inner sole, or ouer leather with any salt stuffe: Or haue not liquored them both thorowly: Or haue burned, scalded, or shauen too thinne, or not wrought sufficiently any leather: Or haue gashed or hurt any leather by any meanes: Or haue refused to currie within fiue daies in Sommer, and ten daies in winter, well and sufficiently, any leather, by any cutter of leather, or his seruant, bringing with him good stuffe for the perfect liquoring of the same, 5. Eliz. 8.

Loose a noble for ech offence, except gashing.

If any Currier haue (during the time that he hath occupied Currying) vsed the feat of a Tanner, Shoomaker or Butcher, or other Artificer, vsing cutting of leather, 5. El. ca. 8.

Loose a noble for each hide, or skin.

Shoomaker.

If any Shoomaker haue made any bootes, buskins, shoes, slippers or pantofles, or any part of them of English Leather wette curried, (other then deeres, goates or calues skinnes, dressed

dressed like Spanish Leather) but of Leather well tanned and curried, or well tanned onely, and well sewed with threede well twisted, waxed and rosined, and with the stitches harde drawen, with harde leathers, and without mixing Neats or Calues leather in the vpper Leathers thereof: Or haue put in any Bootes, Buskins, Startups, or Slippers (betweene the last of September, and the twentieth of Aprill) meete for any person aboue foure yeeres olde, any dye English leather (other then calues or goats skins, dressed like spanish leather:) Or haue shewed for sale, any of his wares vpon the Sunday morning before diuine seruice be ended: Or haue put into any of his said wares, leather made of Sheeps skins bull, or horse hide, or into the vpper Leather of any Shoes, Startups, Slippers, or Pantofles, or into the neather part of any bootes, (the inner sole and halfe of the shooe, onely excepted) any part of the wombe, necke, shanke, flanke, poll, or cheeke: Or into any vtter sole, any other then the best of the Oxe, or Steeres hide: or into the inner sole other then the wombs, necke, poll, or cheeke: or in the treswels of the double soled Shoes, other then the flanks of the saide hides, 5. Eliz. cap. 8.

Loose 3. s. 4. d. for euery paire.

If any lord of Faire or market, haue not appointed two or three honest & skilful persons, to be searchers and sealers of leather there:

Search and seale leather.

Loose xl. li. for euery yeere.

And

And if any the ſearchers and ſealers ſo appointed, haue refuſed to ſeale good Leather: or haue made default in ſearch: or haue concealed any faults, 5. El. ca. 8.

The appointers to loſe xl. s. for each offence.

Looſe iij. s. iiij. pence for each diker of leather: and ſo for each dozen of skins.

If any ſuch ſearcher haue not cut the wombs from the vtter ſole leather, truly tanned, before it be curried: or haue not regiſtred the bargains for leather, taking due fees. *ibidem.*

Looſe fiue pound.

If any perſon haue denied any ſuch ſearcher to enter into any place, to ſearch tanned leather, and wrought ware, or to ſeiſe and cary away that which was inſufficient: Or if any haue caried out of any Faire or Market, any whole ore or ſteere hide (whereof any ſole leather may bee cut) before the wombs be cut off: Or haue put away any tanned leather (red and vnwrought) without regiſtring the ſame, and the price thereof: Or haue bought any tanned Leather, before it was ſearched and ſealed, or haue caried it out of any Faire or Market before it was regiſtred, 5. Eli. cap. 8.

Loſe the value of the leather.

Goldſmiths and gilding.

If any Goldſmith, or worker of ſiluer, haue wrought any ſiluer, that is not ſo fine in allay as the Sterling, or haue not ſet his marke vpon his work before he ſet it to ſale, 2. H. 6. c. 14. And if any haue gilded any Sheathes, or any mettal but ſiluer, ſauing the ſpurs of Knights, and the apparell of a Baron, or ſuch as are aboue that eſtate, 8. H. 5. cap. 3.

Forfeit the double value.

Forfeit ten times the value of the thing gilt: and be priſoned one yeere.

If

If any Pewterer, or Braſier, haue ſold, or exchanged any Braſſe or Pewter, but onely in open Faire or Market, or in his houſe, vnleſſe he were thereto required by the buyer: or hath wrought any hollow wares of lay mettal, which is not according to the Aſſiſe of the lay mettall wrought in London: or haue not ſet his ſeale or marke vpon the ſaid ware. 19. H. 7. ca. 6: & 4. Hen. 8. cap. 7.

Looſe x. li. for each default.

Looſe the wares.

Tilemakers.

If any Tilemaker haue not digged and caſt vp his earth for Tile, till after the firſt of November, or haue not ſtirred and turned it till after the firſt of Februarie following, or if he haue wrought it before the firſt of March following, or if hee haue not wrought and tried it from ſtones, beines, and chalke: Or if he haue made, or anie perſon haue put to ſale, any plaine Tile vnder tenne inches and a halfe in length, ſixe inches and a quarter in breadth, and halfe an inche and a quarter in thickeneſſe: Or anie roofe tile vnder thirteene inches in length, and halfe an inche and halfe a quarter in thickeneſſe, with conuenient deepeneſſe: or anie Gutter Tyle vnder tenne inches and a halfe in length with conuenient thickneſſe, breadth, and depth: And if anye Searchers appoynted for the ouerſight of the true making of Tyle, haue not done their effectuall indeuour and diligence in this behalfe.

Looſe the double value to the buyer.

Looſe, for euery
- *1000. of plain Tile, fiue ſhillings.*
- *100. of roofe Tile, a noble.*
- *100 of corner Tile, two ſhillings.*

Looſe x. s. for each default.

behalfe. 17.E.4.cap.4.

Waxe workers

Forfeit the workes, or the value: and Fine.

If any perſon haue ſold or ſet forth candles or other works of waxe to ſale, at higher price then after the rate of 4. pence for the pound, ouer the cõmon price of plain waxe betweene merchant & merchant, 11.H.6.ca.12.

Clothmaking and Dying.

Fine.

If any Clothmaker haue not ſet his ſeale of lead to his cloth, thereby declaring the iuſt length thereof, to be tried by the water, 3. E.6. cap.2.

Loſe xl.s. for each fault.

If any perſon haue ſtretched any cloth aboue one yard and a halfe in length, or one quarter of a yard in breadth, or haue put to ſale, any cloth that hath ſhrunke more in the wetting then is aforeſaid: Or haue ſtretched any narrow Streit or Kerſey, aboue one yard in length, and halfe a quarter of a yarde in breadth, or haue put any ſuch to ſale that haue ſhrunke more in the wetting, 5. Edw.6.cap.2.

Loſe xx.s. for each offence.

If any Diar of Woollen cloth, haue Died any browne Blewes, Pewkes, Tawneis, or violets that were not perfectly boyled, grayned or maddered vpon the Woad, and ſhot with good Corke or Orchall ſufficiently, 3.E.6.c.2.

Looſe fortie ſhillings for each cloth, or wool, ſufficiens for a cloth.

Loſe xx.s. for each offence.

If any perſon haue Died any wooll for Cloth called Ruſſets, Marbles, Graies, Baies, or ſuch like, or for Hats, or Caps, vnleſſe it were perfectly woaded, boyled, and maddered: Or haue Died with hazel, to the intent to make a falſe colour, in any ſuch cloth

or

or woolle: Or haue put any Floxe, chalke, ſtarch, or other deceiuable thing vpon any cloth (except certaine Deuonſhire and Cornwall ſtraights, 3. E. 6. ca. 2.) Or haue occupied any iron Cards or Picards, in rowing of any wollen Cloth: Or haue ſolde any cloth by any leſſe meaſure then after the true content thereof by the yard & inch: Or haue put to ſale in this Realme, any Cloth (being preſſed) to be occupied in *England, Wales* or *Ireland*. 3. E. 6. ca. 2.

Loſe xl. s. for each offence.

Loſe them and xx. ſhillings.

Loſe a noble for each yard.

Loſe the cloth, or the value.

If any Ouerſeers of Cloth, appointed by the Iuſtices of Peace for this yeare, haue refuſed to bee Ouerſeers, or haue not within their charge, made due ſearch thereof once euery quarter: And if any perſon haue interrupted them to make ſuch ſearch, 3. E. 6. cap. 2.

To looſe as the offendours themſelues ſhoulde looſe.

Loſe xx. pound.

If any Kentiſh broade-cloth (except courſe cloth only, not exceeding ſixe pounds price) haue beene made, that conteined not in length betweene 28. and 30. yardes, beeing wet: and in breadth ſeuen quarters within the liſts: and in waight 76. pounds, being wel ſcoured, thicked, milled and fully dyed, 5. Edw. 6. cap. 6: & 4. & 5. Phi. & Mar. cap. 5.

Loſe xl. s. for each fault of bredth, or length: and the like for each want of weight, aboue foure pound.

And ſo changing it after their rates for other countries, as by thoſe Statutes appeareth,

For

For regrating of Wools by *Halliſax* men. See 2. & 3. *Phil.* & *Mar. cap.* 13.

Linnen cloth. If any perſon haue vſed, or cauſed to be vſed, any racking, beating, or caſting of any deceitful liquor, or other meane, with any kind of linnen cloth, wherby the ſame became deceitful, or the worſe for the good vſe thereof. 1. Eliz. cap. 13.

Looſe the cloth: haue one moneths priſonment, and pay Fine.

Scites of religious houſes. If any owner of any Scite or Precinct, and demeaſnes of any late diſſolued religious houſe (that was in yearely value vnder two hundred pounds) doe not keepe an honeſt and continuall houſhold thereupon, and do not occupie ſo much of the ſaid demeaſnes in tillage, as was occupied by the ſpace of 20. yeares, before the 27. yere of K. Hen. the 8. 5. Eli. ca. 2: 14. Eliz. cap. 11.

Looſe 20. nobles for each moneth.

Flaxe and Hempe. If any perſon hauing in his handes ſixtie acres of arable and paſture together, or of the one ſort alone, apt for tillage, haue not within this yeare tilled and ſowen ſeaſonably (without fraud) one Acre of lande with Flaxe ſeede, or Hempe ſeede or both.

Looſe 5 li. for each default

But ground in a Parke for Deere, & Wood lande, Groue, Medow, Fell, Fen, Saltmarſh, Heath, Common grounds vnapt for tillage, grounds not tilled within fiftie yeeres before this Statute, and groundes plowed onely for cleanſing of it: ſhall not bee accounted in theſe ſixtie Acres, 24. Hen. 8, cap. 4: & 5. Eliz. cap. 5.

If

2000. Sheepe.

If any perſon haue at one time kept aboue the number of 2000. ſheepe of all ſorts, againſt the purport of the ſtatute, 25. H. 8. ca. 13.

Loſe 3. 14 d. for euery ſheep more

Faire & Market for horſes.

If any Owner, Officer or Ruler of any Faire or Market, haue not appointed one certaine open place there, for the ſale of horſes, geldings, mares and coltes, and one ſufficient perſon to take toll, and keepe the ſaid place: And if any ſuch toll gatherer, or his deputie haue taken any more then one peny toll for one contract, or for entring the names of the parties, and that in the ſame place onely, and betweene ten of the clocke in the morning, and Sunne ſetting, 2. & 3. Phi. & Mar. cap. 4.

Loſe xl. s. for each default, and anſwere the party grieued.

Entrie in the Tolbooke.

If any perſon haue in any Faire or Market, ſolde, giuen, or put away, any Horſe, Mare, Gelding, Colt, or Fillie: vnleſſe the Toltaker, Booke-keeper, Baylife, or chiefe officer therof, will take vppon him perfect knowledge of the ſame perſon, his name, ſurname, & place of dwelling, or reſiancie, and ſhall enter the ſame into a booke kept for Horſes ſolde: or vnles the ſaid perſon do bring to ſuch Toltaker, booke-keeper, &c. one ſufficient and credible perſon, that can & wil teſtifie, that he knoweth the ſeller, giuer, or putter away, his name, ſurname, myſterie, and dwelling place: and there enter into ſuch booke, aſwel the ſame, as the name, ſurname, myſterie, and place of dwelling, or reſiancie of ſuch teſtifier, together with the true price that

ſhalbe

shalbe taken for such horse, mare, gelding, colt, or fillie so solde: None shall so testifie, vnlesse he doe indeed truely know the same, vpon paine to forfeit fiue pound for euery default in any the premisses. And the like paine vpon the Toletaker, or other officer aforesaide, that shall refuse to giue to the buyer, or taker of such horse, &c. a true note in writing of that his entrie, the partie paying two pence for the same. 31. Elizab. Reg. cap. 12.

Fine pound.

Inholder.

Fine.

If any Inholder (dwelling in any Citie, Towne corporate, or Market towne, wherein is any common Baker that hath beene apprentice there seuen yeares) haue within his owne house made any horsebread: or (dwelling in any other thorowfaire) haue made it insufficiently, and not of due assise. 13. R. 2. ca. 8: & 32. H. 8. cap. 41.

Horsebread.

Hay & Oates.

If any Inholder haue taken any thing for litter: or haue taken excessiuely for hay, or haue taken aboue one halfe peny in a bushel of oates, ouer the common price in the market. 13. R. 2. cap. 8. & 4. H. 4. ca. 25.

Lose the quadruple value of that which hee hath taken more.

Seruants not retainable for lesse then one yeare.

If any person haue bene retained into seruice to worke for any lesse time then a whole yeere, in any the Arts of a Clothier, woollen Weauer, Tucker, Fuller, Clothworker, Sherman, Diер, Hoster, Tailor, Shoomaker, Tanner, Pewterer, Baker, Brewer, Glouer, Cutler, Smith, Ferror, Currier, Sadler, Spurrier, Turner, Capper,

The retainer is voyde.

Capper, Hatmaker, Feltmaker, Bowier, Fletcher, Arrowhead-maker, Butcher, Cooke, or Miller. And if any person being vnmaried (or vnder thirtie yeeres of age, and maried) and being compellable to serue in any of those artes, haue refused to serue. Refusing to serue. *Prisoned, till he wil serue.*

If any person beeing betweene the age of twelue yeeres and threescore, and being compellable to serue in Husbandry, haue refused to serue in Husbandry after request thereof made by any person keeping Husbandry: And if anie person haue giuen any wages, contrary to the rates of wages of seruants and Labourers appointed and proclaimed. *Prisoned, till he will serue.* Greater wages *Loose v. pound.*

If anie person retained in Husbandrie, or anie the said Artes, haue after his retayning expired, departed out of one limite, Towne or Parish, into another, without a Testimoniall: And if any person haue accepted into his seruice, any so departing, without shewing such Testimoniall. Testimoniall. *Prisoned for xxi. dayes and whipped then, if hee bring not a testimoniall.* *Loose 5. li. for each offence.*

If any person haue put away his seruant before the ende of his terme, without reasonable and allowed cause before a Iustice of the Peace, or at the ende of his terme, without a quarters warning before giuen: And if any seruaunt haue departed without such cause before the end of the terme, or at the ende thereof, without such warning giuen before two lawfull witnesses. Put away, or depart away. *Loose fourtie shillings.* *Prisoned till he will continue.*

Vndertake worke, and not finish it.

Loose one peny, for each houres absence.

Loose 5. li. and haue one moneths prisonment.

If any Artificer or Labourer, hired by the day or weeke, haue not continued at his worke so many houres in the day as he ought: Or taking any worke by the great, haue vnlawfully departed before the finishing thereof.

Assault master or dame.

One yeares prisonment, & other open corporal punishment, not extending to life or limme.

If any Seruant, Workeman, or Labourer haue wilfully and maliciously made any assault or affray vpon his master, or dame, or other person hauing the charge of such workers or worke.

Labour in hay time & harueſt

Loose fourtie shillings.

If any Constable or head Officer, haue not vpon complaint put into the stockes two dayes and one night euery Artificer or person, meete to labour, that hath refused to labour in Haie time or Harueſt, for the getting or carrying of Corne, hay, or graine, being thereto appoynted by a Iustice of Peace, or such Constable, or head Officer.

Apprentices.

Lose x. pound.

If any person haue taken any apprentice against the order of the Law: and if any person haue exercised any Art, not beeing brought vp therein as an apprentice seuen yeeres. 5. Eliz. cap. 4. & 5.

Poore.

Touching the abiding places and collections for the poore, there is no generall order taken in the Shire of *Kent*, 14. Eli. cap. 5.

Prisoners relieued.

If the Churchwardens of any Parish haue not euery Sunday leuied the money for relief of

of the pꝛiſoners in the Gaole, and once in euery Quarter paide it to the Conſtable of the Hundꝛed: Dꝛ if that Conſtable haue not at euerie Quarter Seſſions paide ouer the ſame to the Collectour thereto appointed: Dꝛ if ſuch Collectour haue not weekly diſtributed the ſame foꝛ relieke of the ſaid pꝛiſoners. 14. Eli. cap. 5. *Loſe v. pound.* *Loſe v. pound.* *Loſe v. pound.*

If any perſon hath (ſince the ende of the laſt Seſſion of Parliament) made, buylded: oꝛ erected, oꝛ cauſed to bee made, &c, any manner of Cottage foꝛ dwelling: oꝛ conuerted, oꝛ ordeyned anie building, oꝛ houſing, to bee vſed as a Cottage foꝛ dwelling: vnleſſe the ſame perſon haue layde thereunto foure acres (at the leaſt) of grounde (to bee accompted by the Ordinaunce *de Terris menſurandis*) being his oꝛ her owne freehold and inheritance, lying neere to the ſaid Cottage to be continually manured therewithal ſo long as that cotage ſhalbe inhabited. Cotages.

If any perſon haue willingly mainteined oꝛ vpholden ſuch cotage, not hauing ſo many acres ſo lying and manured.

If there be any Inmates, oꝛ moe houſholdes then one, dwelling in any one Cotage, by the placing oꝛ ſuffering of any owner oꝛ occupier of ſuch Cotage.

But this Statute extendeth not to any Cotage in any City, coꝛpoꝛate (oꝛ market) towne, oꝛ ancient Boꝛough: Noꝛ to the dwelling of any Inmates.

workers in Minerall workes, coale-mynes, Quarries of stone, or slate, or about the making of Bricke, tyle, lyme, or coale: so that they bee not distant aboue one mile from the works, and be vsed only for the habitation of such workes: Nor to Cotages within a mile of the sea, or vpō the side of any Nauigable riuer within the Admirals iurisdiction: so as none dwell therin but Sailers, or men of Manuel occupation for the making, furnishing, or victualing of ships, or vessels vsed to serue on the Sea: Nor to any Cotage in any Forest, chase, Warrein, or parke, inhabited only by them that keepe the Deere, or game there: Nor to any Cotage hereafter to be made, wherein only a common heardman, or cōmon shepherd of any towne, or any poore, lame, sicke, aged, or impotent person shal dwell: Nor which for any iust respect (vppon complaint to the Justices of Assise at the Assises, or to the Justices of Peace at the Q. Sessions) shal by their order (entred in open Assises, or Q. Sessions) be decreed to continue for dwelling, for so long time onely as by such decree shalbe limited. 31. Eli. Reg. cap. 7.

Poore set to worke.

As touching stocks and store of, &c. for the woorking poore, or houses of correction for the idle poore, &c. little is done in this Shire as yet, but for the most part left to the Parishes, 18. Eli. cap. 3.

Caps.

If any person aboue 6. yeares of age (except mai-

maidens, ladies, gentlewomen, nobles, knights gentlemen of xx. marks by yere in lands, & their heires, and ſuch as haue borne office of worſhip) haue not worne vpon the Sunday and Holiday (except it be in the time of his trauell out of the Citie, Towne or Hamlet where he dwelleth) vpon his head, one cap of wooll, knit, thicked, and dreſſed in *England*, & only dreſſed and finiſhed by ſome of the trade of Cappers. 13. Eli. cap. 19. *Loſe 3. s. 4. d. for euery day.*

If any man borne within the Queenes dominions (except it be the ſonne and heire apparaunt of a knight, or the ſonne of one of higher degree, or ſuch as may diſpend xx. pounds by yeere, in lands, Offices, Fees, or other yerely reuenues for terme of life, or bee worth two hundreth pounds in goods, or haue bene head Officer in anie Citie, Borough or Towne Corporate, or be the Queenes ſeruant in Ordinary & wearing her liuerie) haue worne any maner of Silke, in, or vpon his Hat, Bonnet, Nightcap, Girdle, Scabbard, Hoſe, Shooes, or Spurre leathers: And if any perſon knowing any ſeruant of his to offend herein, haue not (within 14. dayes next after ſuch knowledge) put him out of Seruice, if hee were no Apprentice or hyred Seruant, and if he were, then if he haue not put him away at the end of his Terme, or if, hauing put him away therefore, he haue retained him againe within one yeere next after that offence. 1. & 2. Phil. Mar. cap. 2. Silke in apparell. *Loſe x. li. for each day.* *Looſe 100. li.*

The Statute of apparell (made 24. H. cap. 13.) is not thought altogether meete for this time, as it may appeare by some proclamations published.

Bridges. If any Bridges in the highwaies (being out of the Cinque Ports, and members thereof) be broken or decaied, to the annoiance of passengers: and if yea, then what Hundred, Citie, Towne, Parish, or person certaine, or body politique, ought of right to repaire or amend the same, 22. H. 8. cap. 5.

Highwayes. If the Constables and Churchwardens of any parish, haue not in Easter wecke called their parishioners together, and appointed Ouerseers of the woorkes for amendement of the high wayes, leading to any Market, or haue not appointed the fiue dayes for that woorke: and if any such Ouerseers, haue refused that charge.

Fine.

Lose xx. shillings And if any person (hauing a plowe lande in tillage or pasture, or keeping a draught or plow) haue not founde one waine or cart, furnished to woorke eight houres, euery of the said daies:

Lose x. s. for euery draught.

Or if any other person (being assessed in subsidie to fiue pounds in goods, or fourtie shillings in landes) haue not likewise founde two able men: or if any other housholder or cotager, haue not by himselfe or another, so wrought euery of the same dayes.

Lose xij. d. for each day.

Lose x. s. for each default. If the hedges, ditches, trees, and bushes, in and on each side of any such high way bee not kept

kept lowe, scoured, and cut downe by the owners of the grounds adioyning: If any such ouerseer, haue not within one moneth after any of the said offences done, presented the same to the next Iustice of the Peace: And if any person occupying lande adioyning to any such High way, haue cast the scouring of any ditch thereof into the high way.

Lose xij. d. for euery rod.

If any Bailifes, Constables, Surueiors or Churchwardens, haue not leuied the forfaitures for the offences aforesaid, and employed them vpon their said high wayes, and accounted thereof. 2. & 3. Phi. & Mar. c. 8: 5. Eli. cap. 13: 18. Eli. ca. 9: & 27. Eli. cap. 11.

Bailifes and constables to lose xl. s.

Surueiors and Churchwardens to be fined.

If any Occupier, Owner or Farmer, of any Ironworke whatsoeuer, that hath caused any Cole, Mine, or Iron, to be caried in any Cart or Waine, for such Ironworke at any time in the yeare (betweene the 12. of October, and the 1. of May) by the space of one mile through any Highway lying vnder the hilles of this Shire called the Northdownes, hath not also yearely caused to be caried and laide (for euery fiue loades of Cole or Mine, and for euerie tun of Iron so caried) one vsuall Cart loade of sindar, grauell, stone, chalke or sand, meete for the amending of the saide high way, as hath beene appointed by any Iustice of Peace (neere to the place) for him to do: Or els hath not paide in

High wayes.

Lose x. s. for each default.

allowance for euery such load of sindar, grauel, stone, sand, or chalk, the summe of ii. s. vi. d. vpon lawfull demaund thereof. 27. Eli. cap. 19.

Vnlawfull games.

Loose xl. s for euery day.

If any person haue (for lucre) manteined, or kept any common house, alley, or place of bowling, coiting, closh, cailes, tennis, dicing, tables, carding, shouegrote, or any other game prohibited by any former Statute (as football and casting of the stone) or any other vnlawful new game nowe inuented: If any Artificer of any occupation, or anie Husbandman, Apprentice, Labourer, seruaunt at Husbandrie, Jorneiman, or any seruaunt of Artificer, or any Mariner, Fisherman, Waterman, or Seruingman, (other then of a Noble man, or of him that may dispend one hundred pounds by yeare, playing within the precinct of his masters house) haue played out of the Christmasse at anie of the sayde vnlawfull games, or in the Christmasse out of the house or presence of their master. 33. Hen. 8. cap. 9: & *vide* 12. R. 2. ca. 7. 8. 10.

Loose vi. s. viij. d. for euery time.

Crossebowes, and Guns.

Loose x. li for euery offence.

If any person haue shot in, vsed or kept any handgunne, but such as is in stocke, and gunne one yard long: or any hagbut, or demyhake, not being three quarters of a yarde long. 33. Hen. 8. cap. 6.

If any person (not hauing one hundreth pounds reuenue by the yeare) haue caried in his iourney any Crossebow bent, or gunne charged, vnlesse

vnlesse it be to the Musters: If any person haue shot at large (other then at a Butte or Banke of earth in place conuenient) at any thing with any gunne, in any citie, borough or market towne, or within a quarter of a mile of any of them, or haue commanded his seruant to shoote in crosse-bow or gunne, at any thing (other then a Butte or Banke of earth:) Or if any person (not hauing an 100. li. by yeere, or not dwelling within fiue miles of the Sea coast, or not dwelling in a house two furlongs distant from any Citie, Borough or Towne,) doe keepe or haue in his house any Crossebowe. 33. H. 8. cap. 6. *Loose 10. li. for each offence.*

But such as are charged to find a gunne by the Statute (4. & 5. *Philip. & Mar.* cap. 2) and their seruants, may shoot at a Butte or Banke, and at their owne proper games, so that they carry not the same in a Highway, except it be going to or from the *Musters*, or to or from the defence or Seruice of the Realme.

If any person (hauing an hundreth pounds by yeere, and hauing seised any Crossebow or Gunne by vertue of this Acte) haue not broken the same in pieces within 20. dayes next after such seisure: *ibidem.* *Loose fourtie shillings.*

If any Marchant straunger, being of any countrey from whence Bowstaues haue bene or ought to be sent into this land, haue Archerie. *Loose 6. s. 8. d. for each bowstaffe.*

haue not (for euery tunne weight of burden that his vessell containeth) brought hither foure Bowstaues. 12. Ed. 4. ca. 2: 33. Hen. 8. cap. 10: & 37. Hen. 8. cap. 7: & 13. Eliz. c. 14. and for euery Butte of *Malmesie* tenne Bowstaues. 1. R. 3. cap. 11.

Loose 13. s. 4. d for each But.

Archerie.

If any man being the Queenes subiect, and not hauing reasonable cause or impediment, and being within the age of sixtie yeeres (except Spirituall men, Iustices of the one Bench or other, Iustices of Assise, and Barons of the Eschequer) haue not a long bow and arrowes readie in his house, or haue not vsed shooting therein: or haue not for euery man childe in his house (betweene seuen yeeres and seuenteene of age) a Bow and two shafts, and for euery such being aboue seuenteene yeeres, a Bowe and foure Shafts, or haue not brought them vp in shooting: If any man vnder the age of foure and twentie yeeres, haue shotte at standing pricks: or (being aboue that age) haue shot at any marke vnder eleuen score yards with any prickshaft, or flight.

Loose 6. s. 8. d. for each moneth.

Loose 6. s. 8 d. for euery Shot.

Buttes.

Loose 20. s. for euery 3. moneths.

If the Inhabitants of any Towne haue not made and continued their Buts as they ought to doe.

Bowyers.

Lose 3. s. 4. d. for each bow that shall want.

If any Bowyer haue not for euery Bowe that he made of Ewe, made also foure other bowes of apt wood to shoote in: Or haue not solde his bowes for all ages, at their due prices:

If

If any ſtraunger borne, not being a Denizen, haue vſed to ſhoote in a long Bowe, without the Queenes licence: or haue conueied out of her Maieſties dominions, any long Bowe or Shaftes, without ſuch licence. 33. Hen. 8. cap. 9.

Looſe his bowe and arrowes.

Looſe them, and haue priſonment till hee make fine.

If any tempozall perſon, hauing eſtate foz life in freeholde landes, oz tenements, to the value of 200. li. by yeere, oz vnder, and not aboue 400. li. Oz (not being otherwiſe charged) and hauing fees, annuities, oz coppholde landes, foz life to the value of 30. li. oz aboue, oz hauing goods to the value of tenne li. oz vpwarde, haue not and keepe not in a readineſſe, ſuch Hozſes, Geldings, Weapon, Armour, oz other furniture foz the warres, as after the pzopoztion of his abilitie he ought (by the Statute therof made) to haue and keepe. 4. & 5. Philip. & Mariæ cap. 2.

Armour.

Looſe for 3. moneths want of

Horſe or gelding, tenne pund.

Demilance and the furniture, 3. pound.

Corſlet, 20. ſhillings.

Bowe, ſheafe, and skull, 10. ſhillings.

If any tempozall perſon of full age (whoſe wife not being diuozſed, noz willingly abſenting her ſelfe from him, doeth weare any gowne oz petticoate of ſilke, oz any veluet in her kirtle, oz in any lyning oz part of her gowne (other then in cuffes oz purfles) oz any Frenchhood oz Bonet of veluet with any habiliment, paſte oz edge of golde, pearle oz ſtone, oz any chaine

Horſe, for apparell.

chaine of golde about her necke, or vpon any her apparell) haue not found and kept a light horſe furniſhed, except he haue bene otherwiſe charged by the Statute to finde horſe or gelding. 33. Hen. 8. cap. 5: 4. & 5. Phil. & Mar. cap. 2.

Looſe 10 li. for euery 3. moneths want.

Common armour.

If the inhabitaunts of any Pariſh, Towne or Borough, haue not, or keepe not ſuch common armour and furniture for the warres, as haue bene appointed for them by the Commiſſioners thereto aſſigned. 4. & 5. Phil. & Mar. cap. 2.

Looſe for euery 3. moneths after the rates beforeſaid.

Muſters.

If any perſon being generally or ſpecially commaunded to Muſter before any (hauing authoritie for the ſame) haue without true and reaſonable cauſe abſented himſelfe, or haue not brought with him in a readineſſe, his beſt furniture of array and armour for his owne perſon. 4. & 5. Phil. & Mar. cap. 3.

Haue ten dayes priſonment, or pay 40 s. fine.

Captaines.

If any perſon (authorized to Muſter, or to leuie men for the Queenes ſeruice in warre) haue taken any rewarde for the diſcharge or ſparing of any perſon from that ſeruice: or if any perſon hauing charge of men for warfare, haue not paied to his Souldiours their whole wages, conduit, and cote money, or haue for any gaine licenced any of them to depart out of the ſeruice. 2. Edw. 6. cap. 2. *ibidem.*

Looſe ten times ſo much, or 20. pound.

Loſe ten times ſo much, and to the ſouldiour treble ſo much as is not paied.

Souldiours.

If any ſouldiour ſeruing the Queene in her warres,

warres, haue giuen away, wilfully purloined, or put away any horſe, gelding, mare, or harneſſe, wherewith he was ſet forth, 2. & 3. Ed. 6. cap. 2. *Priſonment, till he make ſatisfaction.*

If any perſon haue conueied, ſolde, or giuen into any place beyonde the Sea, out of the Queenes dominions, or to any Scottiſhman, to be conueyed into *Scotland*, any horſe, gelding (or mare aboue x. s. price) without the Queenes licence vnder her great ſeale or priuie ſigner, vnleſſe it were to ſerue the Queene in her warres, 1. Ed. 6. cap. 5. Conuey Horſes, &c. *Forfaite the horſe, mare or gelding, and looſe fourtie pound.*

If any perſon haue put to feede in any Foreſt, Chace, Moore, Mariſh, Heath, Common or waſt ground, within this ſhire, where any mares are vſed to be kept, any ſtoned horſe, being aboue two yeeres olde, and not being fourteene handfuls high, betweene the loweſt part of the hoofe, and the toppe of the wither: If any ſuch Foreſt or grounds, haue not bene yeerely viewen within 15. dayes after Michaelmas by the owners or officers thereto appointed, 32. H. 8. cap. 13. Horſes and Mares for breed. *Forfeit the horſe.* *Looſe 40 s. for euery time.*

Note the Fennie places that be excepted by the Statute. 8. El. cap. 8.

If watches haue not bene made vpon the Sea coaſtes in ſuch places, and with ſuch number of people, and in ſuch maner as it was wont to be, 5. H. 4. cap. 3. Sea watch. *Fine.*

The

Parliament. The Statute of leuying the wages of the knights of the Parliament (made 23. Hen. 6. cap. 11.) hath no common vſe, and is therefore pretermitted.

Note alſo, that theſe Statutes following, are to be openly publiſhed at any Seſſions *of the Peace.* viz.

Purueiors. The Statutes (36. Ed. 3. cap. 2. 3. & 4.) ſhall be proclaimed by the *Iuſtices* of Peace euery yeere, and thereof to enforme the people. 23. Hen. 6. cap. 2.

Victuallers. All former Statutes for victuallers being in force ſhall be proclaimed two times yeerely, in the *Seſſions* of *Iuſtices* of the Peace. 23. Hen. 6. cap. 13.

Archerie. The Acte for *Archerie* (33. Hen. 8. cap. 9.) muſt be proclaimed at the ſeuerall *Seſſions* of the Peace.

Of

Of the Enditements, and Presentments, giuen by the *Iurors*: and of the Matter and Forme, and receiuing, and reiecting of them.

Cap. v.

HE preparation to this Enquirie thus made, let vs go neerer, & looke also into the performance of the same.

The vnderstanding (or knowledge) which the Iustices of the Peace doe take by the trauell of these Enquirors, is by the meane of their report, put in writing, and commonly called, an Enditement or Presentment: betweene the which two wordes (howsoeuer they be confounded, or not rightly distinguished, in common speach) me thinketh that there doth easily appeare a true and certaine difference. For, I take a Presentment to be, a meere denunciation of the Iurors themselues, or of some other officer (as you shal hereafter heare) without any other informatiõ: and an Enditement to be, the Verdite of the Iurors, grounded vpon the accusation of a third person: So that a Presentment, is but a declaration of the Iurors (or Officers) without any bill offered before: and an Enditement is their finding of a Bill of accusation to be true. Presentment, and Enditement.

The one seemeth to come of the Greeke Ἐγκαλῶ, I accuse: the other of the French *Presenter*,

semer, to offer vnto a man, or to set before him.

Some extend the word Enditement to Felonies, and other Capitall crimes: and Presentment, to Nusances and such inferiour faults only. But, taking them at aduenture (as others do) let vs consult with our bookes, that we may learne by them, what points be requisite to the making of a good Presentment or Enditement.

Enditement. An Enditement therefore, ought to be the Verdite of Iurors that be charged to enquire of that offence which is presented by them. For, if A. be endited of stealing the goods of B, and pleadeth thereto Not guiltie, and the Iurie findeth that C. stole the goods, and that A. tooke them from him, but not Feloniously: This Verdite shall not stand for an Enditement against C. because that Iurie had no charge to enquire generally who did the Felonie, but to try specially whether A. were thereof guiltie or no. 13. Ed. 4. 3.

But if A. be arraigned vpon an Enditement of murder (taken before the Coroner) and is found Not guiltie: nowe, the Iurie ought to find, who is guiltie thereof: and if they say, that C. killed the man, that verdite shall serue for a good Enditement against C. because the Iurie had taken so much into charge. *Ibidem.*

This also is generally true, that all Bils, Informations and Enditements grounded vpon penall Statutes (wherein the Prince onely is

to

to reape the forfaiture) ought to be commenced within two yeeres next after the offence committed: and if the suite be giuen to any other person, for himselfe and the Prince, that ought to commence (for the Prince) within two yeres, and (for euery common person) within one yeere, next after the offence done: And otherwise (except the statute of Tyllage) it is meerely void: vnlesse shorter time be limitted by that speciall Statute vpon which the Information, Enditement (or presentment) is made and framed, 31. El. cap. 5.

Furthermore, all enditements, (forasmuch as they be in the nature of a declaration) ought to conteine certaintie: and therfore (as saith M. Marrow) fiue principall things be (most commonly) requisite in presentments before the Iustices of Peace. (*videlicet.*)

1 The name, surname, and addition of the partie endited:

2 The yeere, day, and place, in which the offence was done:

3 The name of the person, to whom the offence was done:

4 The name and value of the thing, in which the offence was committed:

5 The maner of the fact, and the nature of the offence: as the maner of the treason, murder, felonie, or trespasse.

The name and surname of the partie endi- The name and surname.

ted must be certainly expressed: and if the Enditement be of an Accessarie in Felonie, the name of the principall must be set downe also. For if the Enditement be, *quod* A. *mandauit cuidam ignoto occidere* B. *id quod fecit*, this is vicious: but in treason, trespasse, or maiheme, where all be principals, it may be, *quod procurauit personas ignotas*, to doe the treason, trespasse, or maiheme, Marr.

Addition of estate, degree, &c.

Besides the name and surname of the partie endited, there ought also (by the Statute) (1.H.5.c.5) in euery presentment wherein processe of vtlawrie lieth, to be added, his estate, degree, or mysterie, & the Countie, Towne, Hamlet, or Place, where he is, or was conuersant. And euen so ought it to haue bene at the Common lawe also, as touching names of dignitie, made by creation, as Duke, Marques, Earle, Vicount, Archbishop, Bishop, Knight, or Serieaunt at the lawe, because euery of these titles were accounted parcel of the name: But it was not so, for the names of Baron, Banneret & Esquier, (which are but names of dignitie without creation) nor for Chancellor, Treasorer, Chamberlaine, Shirife, Coroner, Escheator, Bailife, Deane, Archdeacon, Deacon, Prebendarie or Parson (which are names of dignitie by reason of office onely) vnlesse the Presentment did charge them in respect of their offices: for then the name of office also (as Bailife or Escheator) ought

ought to be vſed in the Enditement. Marrow.

But now, Baron, Knight, Eſquier, Gentleman, Alderman, Widowe, Singlewoman, Deane, Archdeacon, Parſon, Doctor, Clarke, Pariſh Clarke, are good Additions of eſtate or degree (as I take it) within the meaning of this Statute of Additions: But Farmour, Seruant, Butler or Chamberlaine are not, becauſe they be common to gentlemen and yeomen, & thereby vncertaine. So Chopchurch, Merchant, Grocer, Mercer, Taylor, Broker, Husbandman, Hoſteler, Labourer, Lighterman, Waterman, Spinſter: &c. be good Additions of myſterie. But Citizen is not, becauſe it is no myſterie, arte or degree: Neither is Extortioner, Maintainer, Vagabond, Heretike, Dicear, Carder, or ſuch like, any good addition: becauſe they are euery one euill, and againſt the lawe. Degree or myſterie.

And this part of the Addition of eſtate, degree, or myſterie, muſt alwayes be knit to the proper perſon: For, *Sybilla Batt. nuper de* T. *in comitatu Eb. vxor Ioannis Batt. nuper Spinſter*, was reiected: becauſe Spinſter was more properly to be referred to Iohn (which is the laſt Antecedent) then to Sybilla. *Collect. Dyar. 47.*

Alſo by the ſaid Statute (as I ſaid) the Addition ought to comprehend the Countie, and the Towne, Hamlet or place (knowen out of any Towne or Hamlet) whereof the partie is, or was: So that if there be diuers Hamlets Place.

in one Towne, hee may be named either of the Towne or Hamlet: But if hee be named of a place knowen, and the place be within a towne, then he must be named of the Towne, 35.H.6. 30. And if both the Towne and the parish doe beare one name, he may be named of the one, or of the other of them: But if there bee two Townes in one Parish, then he ought to be named of the Towne, and not of the parish, 5.E.4. 129: 22.Ed.4.2: & 22.H.6.41.

An Enditement against A. the parson of Dale, is not good, without naming the place of his abode: because he may lie at an other place then where his benefice lieth. 25.El. *Cur. Repo. Crompton.*

Alias Dictus. As for the *Alias Dictus*, (which is often put in the Addition) the vse thereof is chiefly in Writs, grounded vpō especialties, and to make the witte and the writing to agree. For (as touching Enditements) if the partie be not wel named, both for his name of Baptisme, Surname, Mysterie, or degree, and place, at the first: then cannot the *Alias Dictus* make that good which was euill before.

And it appeareth (1.Ed.4.2: & 2.E.4.1.6.) that the Addition of the degree or mysterie must alwayes be such as the partie hath at the very time: But the Addition of the place may be of such, where he was at any time before, so that then the word *nuper* be vsed with it.

Furthermore,

Furthermore, the Enditement muſt containe the day, yeere and place in which the offence was committed. 8.E.5.8: 2.H.7.7: & 25. E.3.43. And therefore, if the Enditement ſuppoſe it the 1. day of March, without any more, that is not good: But if it be the 1. day of March laſt paſt, without ſhewing in what yeere, that is good inough: for the certaintie may be found out by the Stile of the Seſſions. So if it be the tenth day from Eaſter, Anno 23. Eliz. that is good: Likewiſe if it be in the Vtas of the holy Trinitie: and it ſhall be there vnderſtoode to be the very day of the Vtas (*videlicet*) the eight day after the Feaſt, and not *Quarto die* after the Vtas: But if it be *In feſto Sancti Petri*, it is not good, becauſe there be diuers Feaſtes of Saint Peter, and none without addition, ſaith 3.H.7. Fitzh. Enditements. 22. The yere, day and place.

If the Enditement be, that A. ſtroke B. 19. *die Maij, anno Reginæ nunc. 28.* whereof B. languiſhed vntill the 21. day of the ſame moneth, *quo quidem 19. die*, he died of the ſame ſtroke: this is faultie, becauſe it ought to be, whereof he died the ſaid 20. day, &c.

If it be *29. die Februarij*, it is good inough in the Biſſextile (or Leape yere) which happeneth once in euery foure yeeres, and which aboundeth 29. dayes to that moneth. But if it ſhould be, of a day and yeere, which is not then come, there is no reaſon to thinke it good.

If it be *Anno Domini milleſimo quingenteſimo octuageſimo ſeptimo*, the yeere ſhall be accounted after the computation of the Church of *England*, & not *Stilo nouo*, as it is now at *Rome*, and in other Countries abroade. If the offence be done in the night before midnight, the Enditement ſhal ſuppoſe it to be done in the day before: and if it happen after midnight, then it muſt lay it to be done the day after. If it be *In Feſto* of any Saint, it ſhall be conſtrued to be in the very day of the Feaſt, and not in the Eue. But if the Preſentment be in the Negatiue, or in the affirmatiue (riſing vpon a Negatiue) as that A. hath not ſcowred ſuch a Sewer, or that by the not ſcowring thereof ſuch Medowes be drowned, in theſe caſes there needeth no yeere, nor day. Marrow.

But, as a man may be too negligent in omitting or not hitting the time: So alſo may he be ouer curious in doubling it without cauſe: for if he frame the Enditement, that A. ſtole certaine goods, ſuch a day, and ſuch an other day, that is faultie, and vncertaine, becauſe one Felonie cannot be twiſe committed. 2. H. 7. 7.

Place. And not onely this certaintie of the time, but that of the Place alſo muſt be contained in the Enditement: for it was adiudged (25. Ed. 3. 43.) that a man ſhould not be put to anſwere to an enditement of killing the Kings Deere, becauſe there was no place named, in which the offence

offence was done. So an Enditement supposing a Felonie to be done in such a place of such a countie, where in truth there is no such place in that Countie, is meerely voyde by the Statutes, 9. H. 5. ca. 1: & 18. H. 6. cap. 12.

If a man being stricken in Middlesex, had died thereof in *Essex*, the bookes, 2. H. 7. 12: 4. H. 7. 18: 6. H. 7. 10: 7. H. 7. 8: 10. H. 7. 28: & 11. H. 4. &c. did not agree, in which of these Counties he should be endited. But the Statute (2. & 3. E. 6. ca. 24.) taketh order, that if the stroke (or poisoning) happen to be in one Countie, and the death in an other countie, the Enditement in the Countie where the Death is, shall be good: and likewise, that if a murder, or felonie, be done in one countie, and a man becommeth Accessarie thereto in an other countie, the Enditement against the Accessarie shal be good in that countie wherein he becommeth Accessarie.

Where (by the way) you may see in plaine woydes of this last Statute, that Iustices of the Peace may take Enditements of Murder, as of Murder, though M. Fitzh. (Fol. 17.) deny it, saying, that they cannot enquire of Murder sauing onely as of Felonie, or Manslaughter.

And you shall read of an Enditement of Murder (before them) receiued 3. H. 7. 5: agreeable whereunto was the opinion of Hales and Portman, Iustices, as I haue seene in a Report of Dalison Iustice. And of the same mind

also were the Iustices of the Kings Bench. 6. Ed. 6. Collections Dyar. fol. 69.

If a man be robbed by the high way in *Middlesex*, and apprehendeth the theefe by Huy and Cry in *Essex*, hauing the goods about him: Now may that theefe be endited of Felonie in *Essex*, but not of Robberie by the high way: for he is a Felon of those goods where soeuer he shall be founde with them: But he is no robber by the way, saue onely in that shire where the way is. *Et debet* (saieth M. Bracton) *quisq; iuri subiacere, vbi deliquit.* Albeit the Statute (25. H. 8. cap. 3.) hath now equally depriued him of his Cleargie in both the Shires.

The name of the person offended.

The certaintie of the name of the person to whom the offence is done, is also in most cases requisite. But yet, if the Enditement be, *quod bona & catalla cuiusdam hominis ignoti felonicè cepit*, or *quendam ignotum felonicè deprædauit*, it is good, because of the Queenes aduantage of forfeiture therby. Fitzh. enditement. 12. And by the opinion of Rede and Fineux, *trin.* 12. H. 7. (reported by Dyar 285.) an Enditement of Affray and assault, *in quendam ignotum*, is good inough, because the partie is at no mischiefe thereby, seeing that if he should be afterward endited of that offence by the very name of that person (supposed in the first Enditemēt to be vnknowen) yet might he help it by taking auerrement, that it was the same & none other offence.

You

You may ſee an Enditement (Fitzh. Endit. 9.) *quod A. verberauit, & 20. Iaccos pretij, &c.* was thought ſufficient, without ſhewing to whom the Iacks did belong: whereat M. Stanford (Fol: 95.) marueileth, ſaying that he ſaw no cauſe why it ſhould be good, vnles it were for that the matter could not be made more certain. But peraduenture certaintie in Enditements, was not in thoſe daies thought ſo needfull, as now it is holden.

If the goods of a Parſon of a Church be taken, the Enditement muſt be, *bona rectoris*, & not *Eccleſiæ*. And if the goods of the Church, then *Bona Parochianorum, in cuſtodia gardianorum*, and not *bona Eccleſiæ*: 37. H. 6. 30. If they bee the goods of a Maior and Communaltie, and the Maior dieth before the Enditement, then it ſhall be *bona communitatis*, ſaith Marrow: but enquire of that, becauſe they haue no ſuch name of Corporation.

If the Enditement be, *quod A. verberauit B. & vnum equum pretij 20. ſolid. felonicè cepit*, and doth not ſay, *ipſius B.* yet it is good inough: 30. H. 6. Fitzher. Endit. 9: But if it bee, *quod vnum equum prædicti I. cepit*, and there were no mention of I. before, then it is voyde. 9. Edw. 4. 1.

If the goods of a man be taken, and hee maketh his executors, and dieth, the Enditement ſhalbe, *bona teſtatoris*: but if they were taken after

ter his death, it shal be, *bona testatoris in custodia Executorum existentia.* If the Enditement be, *quod A. furatus est tunicam hominis ignoti, quem inuenit mortuum*, that is not good, 11. R. 2. Fitz. Endit. 15. If a man take away a coate armour, which hangeth ouer a Tombe in a Church, the Enditement shall say, *bona executoris*, of him whose Tombe it is: but if a graue Stone be taken away, the enditement shall be, *bona Ecclesiæ:* Marr. If my goods bee taken by a Trespassour, and another taketh them from him, the Enditement shalbe, *bona* of him which had the last possession. But if I baile goodes to one, from whom they be robbed, then it shalbe, *bona* of me in his keeping, Marr. If an enditement be, *Bona Capellæ in Custodia, &c.* or *bona Domus*, or *Ecclesiæ tempore vacationis*, it is good. 7. E. 4. 14.

The name of the value of the thing.

The name (and value) of the thing in which the offence is committed, ought also to bee comprised in the Enditement: for an Enditement of the taking *bona & catalla*, whether it be in Trespasse or Felonie, is not good, for the vncertaintie what goods they bee: And if it bee of dead things, it may be *bona & catalla*, expressing the names therof in certaintie: But if it be of things liuing, it shal not say, *bona & catalla*, but *equum, bouem, ouem, &c.*

Againe, the value (or price) of the thing is commonly to be declared: in Felony, to make it appeare

appeare from petit Larcinie: and in Treſpaſſe, to aggrauate the fault and fine: But yet an enditement of the taking of Beaſts *feræ naturæ*, as Deere, Hares, Partridges, or Pheſants, is not good, vnleſſe they be taken in a Parke, or Warrein, that be liberties. 8. E. 4. 5. So of Charters, becauſe their value cannot be eſteemed.

In all caſes (ſaith M. Marrow) where the number ought to be expreſſed in the enditement, there alſo it muſt be ſaid, *Prætij*, or *ad valentiam*: as if it be of the taking of doues, in a doue-houſe, or yong Hawkes in a Wood: And where it is of a liue thing or things, it muſt bee *prætij*: and ſo of a dead thing in the ſingular number: but if it be of dead things in the plurall number, then it muſt be *ad valentiam*, and not *prætij*. Againe, if it bee of a dead thing that goeth by weight or meaſure, the forme is to ſay *prætij*, and not *ad valentiam*. *Prætij*, & not *ad valentiam*. &c.

If the enditement be of taking away coine, which is not currant, it ſhall ſay, *prætij*: otherwiſe it is of money currant, becauſe that carieth his value and price with it. If it be *quod proditorie fecit groſſos, vel denarios*, it ſhalbe *ad valentiam*, and it ſhall not ſay, *20. libras in denarijs*, or *in pecunia Domini Regis*, but *ad inſtar pecuniæ Domini Regis*. Marr.

Sundrie other daintie and nice differences doth M. Marrow make, where a man ſhall ſay, *prætij*, and where *ad valentiam*, binding the enditement

ditement to that rule which the Regiſter taketh for the originall Writs of Treſpaſſe: But forasmuch as Nele (9. Ed. 4. 26.) ſaith, that enditements be not tied to that forme, and becauſe that rule of the Regiſter is not very conſtantly obſerued in Treſpaſſe it ſelfe (as a thing not materiall, in the opinion of Fitz. in his Nat. Bre. Fol. 88.) I thought it beſt to make choiſe of theſe (that I haue) for publike vſe, and to leaue the reſt for priuate learning.

The maner of the fact, and nature of the offence.

To the further certaintie of the enditement, the very maner of the fact it ſelfe, and the nature of the offence, ought to be mentioned alſo: for if the Enditement be, *quod* A. *captum pro felonia, felonicè & voluntariè ad largum ire permiſit*, this lacketh the certaintie for what felonie hee was taken, and is thereby voide, 8. E. 4. 3. And ſo, if the Enditement be, *quod felonicè fregit priſonam apud* A. and doe not ſhew for what Felonie hee was impriſoned there. So, if it be, that a man made 100. ſhillings of Alchimie *ad inſtar pecuniæ Dominæ Reginæ*, and doe not ſhewe like to what money, as groates, or ſhillings, &c. it is voyde, Fitz. Endit. 10. And therefore, in Murder or Manſlaughter, it doeth well to expreſſe the ſtroke, whereof the death enſued. Collect. Dyar. 96.

If the Enditement bee, that A. ſpake ſuch words againſt the Queene, and lay them down incertaine, *vel his ſimilia:* it is voyde for the incertaintie.

certaintie. *Brooke action ſur caſe 112.* And if it be, that A. and B. *manu forti intrauerunt in tenementum, &c.* that alſo is inſufficient for the like incertainty: becauſe the word *tenementum* may as well extend to a houſe or cotage, as to land, medow, paſture, &c. Dalyſon.

So if the Enditement runne thus: *Apud* C. *in comitatu prædicto inſultum fecit, & ipſum cum quodam cultello, precij &c. felonice percuſſit, & ex malitia ſua præcogitata murdrauit:* it is not ſufficient, without ſhewing the place where hee murdered him, which may be in ſome other place then where hee aſſaulted him. Collect. Dyar. 69. And an Enditement of ſelling tanned leather, was diſliked (1. R. 3. 1.) becauſe it neither conteined the place where, nor the perſon to whom the leather was ſold, both which be materiall and trauerſable.

If the Enditement be, that a man is a common theefe, without ſhewing eſpecially in what thing, it is nothing worth, 22. lib. Aſſ. Pl. 75. & 29. 45. And ſo, if it be of a generall extortion againſt an Ordinarie, without ſhewing in what, by 25. E. 3. Stat. 3. cap. 9. And ſo alſo, if the Enditement ſtand vpon theſe termes onely, *Inſidiatores viarum, & depopulatores agrorum*, by 4. H. 4. cap. 2. And thereupon the Court ſaid, (17. Ed. 4. 4.) that vpon ſuch an Enditement, the partie ſhalbe diſmiſſed. Howbeit, the Commiſſion of the Peace hath the words, *in inſidijs iacuerint*,

erint, but it goeth further, *ad gentem noſtram mayhemandam.*

Neither is it good in an enditement againſt an Acceſſarie, to ſay, that he receiued the goods without telling, that he receiued the Felon, 27. lib. Aſſ. Pl. 69: 9.H.4.1 : & 25.Ed.3.39. nor to ſay, that he *ſcienter felonem Dominæ Reginæ apud* A. *recepit*, without ſhewing what Felonie he committed. 7.H.6.65. nor without telling, that he (knowing it) receiued him feloniouſly, 7. H.6.42. vnleſſe he receiue one that is attainted of felonie in the ſame Countie: for then he muſt at his perill take knowledge of the Attainder, and ſo no ſuch mention of knowledge needeth to be vſed, as it is holden 8.E.4.3. But enquire thereof.

And if ſuch an Enditement bee, *Sciens ipſos quatuor homines feloniam, &c. feciſſe apud* D. *felonicè recepit*, it is not good, for that it ſheweth not, which of them he receiued 30.H.6.2. And yet, if foure be endited ioyntly, then are they alſo each one ſeuerally endited thereby. 6.E.4.5. Markam.

Nature of the offence.

Concerning the nature of the offence, this is to be obſerued: that in an Enditement of treaſon (preſentable before the Iuſtices of Peace) the worde Proditorie ought to bee vſed: In the Enditement of Murder, *murdrauit* is neceſſarie, 9.E.4.26: and that worde alone emplieth *ex malitia præcogitata*, Collection Dyar 69.

But

But if without *murdrauit*, it bee *quod* A. *occidit* B. *ex malitia præcogitata & voluntariè*, it is not inough, because one man may kill an other so, in a Wager of Battaile, and yet bee no murderer. And for the same reason, if it be of Manslaughter, it must be *Felonicè*.

An enditement was, that the sonne had taken the sicke father, & caried him into the colde weather, whereof he died, but it was disallowed because it lacked *Felonicè*. Fitz. Endit. 3. Againe, if the Enditement be of Burglarie, then it must be *Burglariter*, or *ea intentione ad feloniam, siue murdrum faciendum*: for it is not inough to say, *Felonicè fregit domum mansionalem in nocte*. And if it be of Rape then it must say, *Felonicè rapuit*, for (without *rapuit*) it sufficeth not to say, *Felonicè cepit Aliciam, & eam carnaliter cognouit*. 9. E. 4. 27: & 11. H. 4. 12.

If it be *Furatus est*, it seemeth to Marrow to be good without the word *felonicè*, but 18. E. 4. 10, is against him.

If it be *felonicè abduxit vnum equum*, it is not of value without saying, *cepit*, neither is *cepit* good alone, without *abduxit*: for it must bee *felonicè cepit & abduxit*. Fitz. Endit. 3. And if it bee, *felonicè succidit arbores, & illas asportauit*: or *vi & armis succidit arbores, & felonicè asportauit*, neither of them will make it Felonie, because the trees be a part of the freeholde, whereof no felonie can bee committed:

12. lib.

12.lib.Ass.pl.32. But if it be, *vi & armis succidit arbores, & eas felonicè* (at another day after) *cepit & asportauit*, that wil make it Felony, as I haue said alreadie. And if the Enditement be of petite Larcenie, it ought to haue *felonicè* in it, 27.H.8.27.

And albeit the Enditement bee but of a Maiheme, it must saye, *felonicè mayhemauit*, and yet mayheme is no Felonie, but an hainous, and (as it were) a Felonious trespasse. But where in an Enditement of Felonie, the worde *felonicè* wanteth, there the Enditement may neuertheleſſe stand good to make it a trespasse, 2. H.7.7:6.H.7.4:& 18.E.4.10.

And in an enditement of Trespasse or felony, it seemeth that the wordes *contra pacem* ought to be yet vsed: But the necessitie of the words, *vi & armis*, (viz.) *cum baculis, cultellis, &c.* be taken away by the Statute, 37.H.8.c.8. Neuertheleſſe M. Stanford (Fol.94.) is of the opinion, that it is not amisse to vse those words, so long as the circumstances of the fact do require them: for (saith he) The circumstaunces of an acte, do either aggrauate or diminish the offence therein.

If the enditement be of forcible entrie, then the words *vi & armis*, be needleſſe, because they are necessarily emplied in the word Force: Mar. And if the Enditement be founded vpon a statute, it ought to say, *contra formam Statuti, in*

huiusmodi

huiusmodi casu prouisi, ac editi: or (where many Statutes doe concerne one offence, as in the case of Liueries and such like) *contra formam diuersorum Statutorum*, without speciall naming of any: and then the best shall bee taken for the Queene. But an Enditement of a Riot, without saying *contra formam Statuti, &c.* is not good, as may appeare in the Trauerse (ca. 13.) following, because it is no Riot, but by that statute. And yet, it is not of necessitie, that the Statute be verbally rehearsed, but only that the offence against the Statute be sufficiently & with full words described. *Comment. 1. & 79.*

In the twentieth yeere of Queene *Elizabeth*, a man was endited vpon the Statutes (1. Eli. cap. 1: & 13. Eliz. cap. 2.) for ayding another, knowing him to bee a principall maintainer of the authoritie of the See of *Rome*, *contra formam Statutorum prædictorum*: But, because the enditement wanted certain material words (expressly mentioned in the Actes) viz. vpon purpose, and to the intent to set foorth and extoll the authoritie, &c. the Enditement was thought insufficient by the greater part of the Iustices (assembled for that purpose) notwithstanding the words, *contra formam Statutorum prædictorum*, were therein contained, Collection Dyar. 363.

Againe, it is not safe to recite the dayes or places, of the beginnings, continuances, proro-

gations, or dissolutions of the Parliaments: least (by mistaking any of them) the whole enditement fall to the ground thereby. *Ibid.* 203.

Thus farre of these pointes by way of short rule and direction: for the better imitation and practise whereof, you may vse the helpe of such formes of Inditement, as the Appendix at the ende of this worke wil affoord you. Now let vs with a few words consider what enditements be receiuable by the Iustices of Peace, and what ought to be reiected by them.

Enditements to be receiued or reiected.

Generally, they may receiue Enditements before themselues, of all causes being eyther within their Commission, or within the Statutes whereof they haue to enquire. And they may also receiue Enditements taken before the Sherife in his Turne lawfully, that is to say, so that the Turne bee holden within the moneth after Easter, or within the moueth after Michaelmas, and so that those enditements or presentments be indented & sealed betweene the Sherife and the Iurors, and so that they be made by the oath of twelue men at the least, and that those Iurors bee of good fame and *Legales homines*, that may dispende yeerely twentie shillings of Freehold, or twentie sixe shillings eight pence of Copyhold, W. 2. ca. 14: 1. E. 3. c. 17: 31. E. 3. c. 14: 1. E. 4. c. 2: & 1. R. 3. c. 4: And for this purpose the said statute (1. E. 4. c. 2.) bindeth the Sherife to certifie to the Iustices of peace at their next

next Sessions the Enditements founde in his Turne, or Lawday. It seemeth also (by way of admitting) in the Booke (27.H.8.2.) that the like ought to bee done of the Presentments of Felonie in any Leete, by vertue of the said statute of 1.E.4.ca.2. But that is further to be enquired of, for I find no better warrant for it.

This is certaine, that Iustices of the Peace ought to receiue Enditements founde in any Leetes or Lawdayes, vpon the statute made for the breeding of horses: to which ende also, the Court-holders of such Leetes are bound to certifie the same vnto them within the space of fortie dayes, 32.H.8.ca.13.

But Iustices of the Peace haue none authoritie to receiue an Enditement, of the killing of a man *se defendendo*, saith Stanf. 15. as hee had heard say. But enquire further therof: for though it bee not felonie (as appeareth by the Statute of Glo.cap.9.) Yet be there other words in their Commission extending to giue them power to heare & determine of such an offence. But they are not to receiue an Enditement of the killing of a Hart proclaimed, for the Iurisdiction of it belongeth to the Iustices of the Forest, 21.H. 7.30. Fineux. And (as it seemeth) they may reiect an Enditement that findeth anie matter of Recorde as Vtlawrie, or such like, vnlesse it bee shewed vnto the Iurors *sub pede sigilli*: for Iurors are to finde matters indeed only,

and not of Record, 1. H. 7. 6: & 3. H. 7. 1. & 10. And so, if the Sherife will offer Enditements of Liueries, Rauiſhment of Women, or of Felonies by ſtatutes, or of ſuch other cauſes (whereof they haue no power to enquire in their Turnes) the Iuſtices of the Peace ought to reiect them, 4. Ed. 4. 31: 8. Ed. 4. 5: 22. E. 4. 22. & Stanford 87.

The duetie of the Iuſtices, about Enditements.

Thus much for the better aſſiſtaunce of our Iuſtice of the Peace, I thought meete to ſay of Enditements: not onely becauſe they bee the chiefe baſe and groundworke whereupon the whole Triall is afterward to bee built and framed: But alſo becauſe the Iuſtices (being Iudges of the Court) ought of Office to ſee, that the billes of Enditement haue ſufficient matter and forme in them. 24. E. 3. 74.

And for that end, it is the maner (in ſome places) to commaund, that the Enqueſt take no Bils, but ſuch onely as the Iuſtices themſelues haue firſt peruſed. Howbeit, as it is certaine that the Enqueſt may ſafely doe the contrary, ſo long as the Bils doe carie good matter and allowable forme: So I will aduiſe, that the Iuſtices ſhall rather peruſe the Bils after that the euidence ſhal be theruppon giuen to the Iurie, then to put their pennes into them before that the Enqueſt ſhal be enformed: taking it to be, not onely no hinderance at all to the ſeruice, but alſo the moſt warie and ſecure way for the Iuſtices themſelues

ſelues to walke. For, though it be ſaid (35. H. 6. 14: & 12. E. 4. 18.) if a Bill of Enditement be deliuered to a Iuſtice of Peace, at (or before) the Seſſions, which he promiſeth to reade, and to deliuer to the Iurie, and ſo doeth accordingly, that he ſhall not be charged for it in a Writ of Conſpiracie: yet may it be thereupon doubted, whether he ſhall be excuſed, if (vpon conference had) he doe buſie himſelfe either to draw, engroſſe, or amend the Bill before it be preferred to the Enqueſt that ſhall haue it. And, ſeeing that the Iuſtices doe commonly receiue the Bils from the Enqueſt, with their expreſſe aſſent to amend any defect of certaintie in the forme onely: and may alſo award a *Venire facias* againſt the Enditors to amend a bill vpon their firſt oath, at any time before it bee remoued, (8. Hen. 5. 8: & Stanf. 97.) ſo that the buſineſſe is not a whit impeached by this forbearance, there is no cauſe (as I thinke) for the Iuſtices of the Peace to anticipate the matter before the right time: but rather, to leaue the firſt drawing, and ingroſſing of the Bils, to the Clarke of the Peace or other miniſters of the Court, & (after the euidence giuen) then to conſider, whether they be formal, or ought to be reformed.

Of the Presentments and *Informations* of Officers, and other men.

Cap. vi.

HAuing shewed howe these Iustices take knowledge by the labour of Iurors in Enquests: it followeth to declare also how they may haue vnderstanding by other men: And that is to be done, either by the presentment of publique officers, or by the Information of priuate persons.

Presentments of *Iustices* of Peace and *Constables.*

In some cases therefore, these Iustices may heare one another, for euery Iustice of the Peace may (vpon his proper knowledge) make presentment at the Sessions, of any offence done against the Acts (2. & 3. Phil. & Mar. ca. 8: & 5. Eliz. ca. 13.) concerning the amendment of the high wayes. And in this, and such like cases, his report hath the force of a Presentment of xii. men: So that he and his fellowes may proceed vpon it. 21. H. 6. 5.

Of like value is a Presentment made at the next Sessions by searchers appointed to examine the true making of Tile, 17. E. 4. cap. 4. And of some such like strength also (as I think) is the Presentment of the Constables, concerning sundry pointes conteined in the statute of *Winchester.* 13. E. 1.

This

This Court may also bee giuen to vnderstand by the meanes of priuate men: and that either for the Queen only, or for the Queene and themselues, or (in some speciall causes) for themselues without the Queene. Information by priuate men.

That which is for the benefit of the Queen, or for her and the partie, is sometimes mooued by the free offer of him that openeth the matter, and sometimes wrought by commaundement of the Court.

The free motion of the partie, is sometimes by word only, which is properly but a Suggestion: and sometimes by writing, named a bill, plaint, complaint, or Information: all which be not alwaies of one force in this businesse. Free and Voluntarie information.

For, albeit that we read (1.E.5.6.) that the Court of Chancerie will sometimes both take knowledge, and also award Processe vpon an Information by worde in the behalfe of the Prince, and that 39.H.6.41. also admitteth such a matter: Yet I thinke that before Iustices of the Peace, these Suggestions and Informations both (be they by worde, or writing) are but of the force to stirre vp the Iustices to recommend the cause to the Enquest, & not to awarde any Processe vpon them: vnlesse it bee in certaine causes, where that validitie is specially giuen them by the statutes, as you shall hereafter perceiue.

There was once a time (I confesse) when

Iuſtices of the Peace might haue awarded Proceſſe vpon an Information (for the King only) of offences againſt any penall lawes, euen as they may yet vpon Enditements againſt the Peace: but that lasted not long, and therfore that courſe is holden now in ſpeciall ſtatutes onely.

Neuertheleſſe, at euery Seſſions (ſaith Iudge Priſot. 35. H. 6. 15.) the Iuſtices of the Peace doe vſe to make Proclamation, that if any will enforme for the Prince, he ſhall bee hearde: and thereupon any man may come in, and may both informe the Iuſtices of the Peace, and giue euidence to the Enqueſt, without danger of Conſpiracie, by the opinion of the Court in the laſt ſaide Booke.

And as that which ariſeth vpon Preſentment or Enditement, is properly called the ſute of the Queene: (as I told you out of Y. Fitz.) So this other (whether it be by Bil, Plaint, Complaint, or Information) is more aptly termed the ſuite of the party: at whoſe ſute, the Iuſtices of the Peace may heare of diuers offences: eyther for himſelfe, or for the Queene: In other ſtatutes at large, ſuch rules are to be followed, as they themſelues doe preſcribe.

And in this Information, the ſtatute of Additions (1. H. 5. c. 5.) ſeemeth (vpon the bare words) to haue no place: for Informations be not mentioned in it: and vpon that reaſon, the Court (13. H. 7. 21.) did holde it cleere, that if Reſcous

be

be returned by the Shirife againſt certaine perſons, without their Additions, yet in that caſe they may well be vſawed vpon it.

The other compulſorie information, groweth by examination of witneſſes called into the Court, and is ſet forth in the ſtatute of Drouers and Badgers (5. Eliz. cap. 12.) where it appeareth, that (vpon the examination of two lawfull witneſſes) the Iuſtices of Peace may make Proceſſe, as if it were vpon an Inquiſition of twelue men. Forced Information.

The like may they do, vpon the ſtatute of Armour, 4. & 5. Phil. & Mar. cap. 2. And the very like alſo may they doe vpon the Statute made againſt Foreſtallers, 5. Ed. 6. cap. 14. which laſt ſaid ſtatute ſeemeth (for this point) to haue bene followed, as a Paterne, by the other two: ſo rightly they tread in the ſteps of the ſame.

Hereunto alſo you may adde, the examination of the Maſter and Mariners of ſhips, wherein corne or victuall ſhall be tranſported againſt the meaning of the Statute. 1. & 2. Phil. & Ma. cap. 5.

Thus much, of the knowledge of cauſes exhibited by ſuch as either doe it at large for the Queene, onely to haue the offence puniſhed, or be ſpecially allured thereto by regard of benefit growing in common to them with the Queene thereby. Now of thoſe that ſeeke to informe the Court, for profite enſuing to themſelues alone. Suite betwene parties.

The

The knowledge that commeth this way, is by the priuate sute and proper action of the partie, and is therefore in the Statute (11. Hen. 6. ca. 6.) termed a sute betweene partie and partie: whereof that statute had no lesse consideration, then of those other sutes that be for the Queene her selfe: and therefore prouided, that they also should not be discontinued by new Commissions of the Peace to be made.

I know, that there be not many Statutes which doe giue power to the Iustices of Peace, to hold Plea of Action betweene partie and partie: and I thinke it hath not bene often experimented vpon those very statutes which doe giue it: and how the Iudges do expound this present Statute (11. Hen. 6.) I cannot tell. Neuertheleſſe, because I may neither wittingly conceale any such part of their authoritie and Iurisdiction, (although it were so but in mine owne opinion) nor safely report it without some proofe and warrant, I will giue you a fewe examples of this kind (as I take it) and wil leaue the rest to further search.

The Iustices of Peace haue power to enquire, heare, and determine of all the defaults against the statute (made 3. H. 6. ca. 11.) concerning the leuying of the wages of the knights of the Parliament) as wel by enquirie at the kings sute, as by action at the sute of the partie.

So may they heare and determine, by Information,

mation, Action of debt, or bill, the offence against the statute of Labourers, 5. El. ca. 4: And likewise, by Information, or any other Action, the offences of taking Fish, Deere or Hawkes, forbidden in the same Parliament. cap. 21.

In which, and such like the Iustices of Peace ought to proceed after the vsuall maner of other Courts of Record at the common Lawe (if I doe not mistake it) and therefore I will goe no further with it, but will prosecute that hearing and determining that more properly and commonly pertaineth vnto them, if first I may shewe you, how they are sometimes preuented in that behalfe.

Of the Impediments of proceeding vpon *Enditements*, before the Iustices of Peace: and therewithall of the *Certiorari* to remooue *Records*.

Cap. vii.

IT falleth out not seldome, that when Iustices of the Peace haue taken an Enditement found before them, they cannot proceed to hearing & determining vpon it: either because it is grounded vpon some such statute as giueth vnto them no further power, but only to enquire therof: or els because the Enditement is taken out of their handes by *Certiorari*,

Certiorari, and conueied to Iustices of a higher authoritie, at the sollicitation and by the meanes of some parties grieued, to the ende that either they may trauerse it aboue, or there auoide it for insufficiencie of forme or matter.

Where Iustices of Peace may enquire onely.

And therefore Iustices of the Peace may onely enquire of certaine the offences against the Acts (1. El. ca. 2. & c. 3: 5. El. c. 1: 13. Eliz. ca. 2.) touching the acknowledging of the Queenes supremacie, or the seruice of God, or comming to the Church, or the establishment of true religion: as you may see, 23. El. ca. 1.

And they may only enquire, of any the treasons, or misprisions of treasons, made by the same Acte, 23. El. ca. 1.

Neither can the goe any further, then onely to enquire of, and to endite the offendors against any the Articles of the Acte made (23. Eliz. cap. 2.) concerning seditious rumours against the Queene.

In the rest (so farre as I haue found) their power of Enquirie is accompanied with the authoritie to heare and determine also. For, this want of Iurisdiction is not founde in the Commission of the Peace it selfe, but onely in certaine Statutes, that (for waighty causes) doe restraine this further proceeding.

By what meanes such Enditements shall be remooued to those higher Courts, I will shew you when I come to speake of Certifying the Records

Records of the Sessions: and will now goe on with those other Enditements that be remoued by labour of the parties.

Albeit, that in the remouing of pleas, betweene partie and partie, from inferior to higher Courts, by *Tolt*, *Pone*, *Recordare*, &c. there was wont to be a probable cause alleaged, for which the same were remooued: yet in this case of the Crowne there needeth no cause to bee comprised in the Writte of *Certiorari*: because they all be the Courts of the Queene, and it breedeth neither iniurie to the offendor, nor losse to any other person, in what court soeuer the offence be tried. Enditements remooued by labour of the parties.

This *Certiorari* then, may commaund either the Record it selfe, or *Tenorem Recordi*, to be sent vp, and it ought to be obeied accordingly. For, vpon faile thereof, first an *Alias*, then a *Pluries* (*vel Causam nobis significes*) and lastly an Attachment shall goe out against them that should send it, as M. Fitzh. noteth in his Nat. Br. Fol. 245. but I haue heard, that they vse also a *Sub pœna*, at this day.

And albeit the *Certiorari* be a *Supersedeas* of it selfe, yet may the partie vpon the *Certiorari* purchased, haue a *Supersedeas* also, directed to the Shirife, and commaunding him that he arrest him not vpon that Record before the Iustices of Peace, Fitzh. *ibid.* fol. 237. In which place also he doubteth, whether the Iustices of Peace

Peace themselues ought of dutie to award their owne *Supersedeas* to the same effect, after that the writ of *Certiorari* is brought to their hands.

This Writ of *Certiorari* is euer directed to the Iustices of Peace, & yet (as you haue heard) the *Custos Rotulorum* onely hath the keeping of these Records: but the ancient Commissions of the Peace had no *Custos Rotulorum* specially named in them (as I haue tolde you) and then this certifying belonged to them all, which forme the writ receiueth to this day. And if it fall in question, whether such a *Certiorari* were deliuered to the Iustices of Peace or no, that must be tried (saith the booke, 10.H.7.24.) by the verdit of twelue men.

Now, if a *Certiorari* come to the Iustices of Peace to remoue an enditement, and the partie sueth not to haue it remooued, but suffereth it to lie still, then the Iustices of Peace may proceed notwithstanding the Writ, as Hubbert the Kings Atturney said, 6.H.7.16.

For otherwise, the triall of a Felon (if the enditement were of Felonie) might be delaied and deluded also. But yet Keble helde opinion against him, and was fearefull that in such a case it might prooue felonie to make execution of the felon after such a Writ receiued.

And if a *Certiorari* come to the Iustices of Peace to remoue an Enditement, and in truth the Enditement was not taken til after the date of

of that *Certiorari*: yet, if the Enditement be remooued thereby, it is good inough, for that they both be the Queenes Courts, 1.R.3.4.

The maner of the certificate.

In the making of a Certificat vpon this *Certiorari*, the Iustices of the Peace ought neither to omit that which doeth authorize them, nor to exceed that which belongeth vnto them.

For, on the one side, if they Certifie an Enditement of Felonie, or of a Riot (as taken *coram Iusticiarijs ad pacem*,) it is not inough, without saying further, *Necnon ad diuersas felonias, &c.* and otherwise, it is doubtfull whether the Endited shall be quite dismissed or no: because the Iustices of Peace haue then no Record at all remaining with them (for the clarke of the Peace maketh his Entrie accordingly,) and that Record which they sent vp, is insufficient. And therefore, the Clarke of the Crowne was forbidden to receiue any such Certificat. 12, Hen. 7. 25.

On the other side, if they certifie an Enditement of felonie not determined, into the Kings Bench, they ought not (without Warrant) to certifie an other Record of the acquitall of that Enditee for the same matter: for nothing ought by them to be sent thither without warrant, but that which is executorie, and needeth the helpe of that higher Court, 8, Ed. 4. 18.

And if a *Certiorari* be, to send vp the enditement of A. in which Enditement some others be

be endited together with the same A. yet neede not the Iustices of Peace to make Certificate concerning any but A: 6.Ed.4.5.

For although they be named ioyntly, yet be they endited seuerally (as I haue saide before) and the Queene may pardon A. without forgiuing the other, 6.Ed.4.5.Markam.

Againe, if the Enditement be of the stealing of two horses, and the *Certiorari* speaketh but of one horse: it seemeth that they neede not to certifie it at all, because of the variance: for it is certaine, that they of the Kings bench will not arraigne the Enditee vpon it: but will rather write againe to know, whether there be any Enditement that agreeth with the Writ: 3.lib. Ass.pl.3. *cur.*

Finally, it is noted (8.Hen.5.5.) that Hankford the chiefe Iustice of the Kings Bench, obserued this order, that he which brought thither an Enditement (taken before Iustices of the Peace) should endorce his name vpon the backside of it: which I note, not to teach them of the Kings Bench, but to let the Iustices of Peace see, that there is some heed to be taken of him by whom they send vp their Enditements.

Of

Of the ſundry ſortes of *Proceſſe* vpon Enditements and Informations: and of the *Superſedeas* for ſtay of them.

Cap. viii.

THe Court being thus made pryuie and poſſeſſed of cauſes, muſt of duetie proceede to the handling (or hearing) and trial of them: the which becauſe it cannot indifferently doe, vnleſſe it keepe one eare for the offendour, that hee alſo may be heard in his owne diſcharge, as others were heard to lay the charge vpon him: the maner is (if he be abſent) to award Proceſſe againſt him, to come in, and to make anſwere.

But if he appeare in Court, and confeſſe the Enditement, then needeth there no Proceſſe at all: for he ſhal be committed forthwith to pryſon, vntil that he hath made his Fine. 1.H.7.7.

Commonly an Enditement or Information, (being but an accuſation or declaration againſt a man) is of none other force, but onely to put him to anſwere vnto it.

And hereof all Proceſſe hath the name, becauſe it proceedeth (or goeth out) vpon former matter, either Originall or Iudiciall. Proceſſe, whereof it is named.

Howbeit I make difference, whether this Proceſſe be grounded vpon an Enditement, or vpon ſome other information: for they be not all one: vnleſſe it be (in a few ſtatutes) ſo ſpecially

prouided: Although the ſtatute (33. H. 8. cap. 10.) did once coniopne and couple them.

Authoritie to make out proceſſe.

The authoritie of making proceſſe vpon Enditements, is giuen by expreſſe woꝛdes in the commiſſion: and in other caſes (where it is not namely giuen) it is implied of congruence (oꝛ rather of neceſſitie) in the woꝛds heare and determine: which cannot be perfoꝛmed, vnleſſe the partie either do come in *gratis*, oꝛ be bꝛought in by the power of proceſſe.

This Proceſſe ought alwayes to be in the name of the Queene, thus: *Elizabeth Dei gratia, &c. Vicecomiti Kancia, &c.*: And theꝛefoꝛe alſo, (ſeeing ſhe is partie) it muſt ſay, *non omittas propter aliquam libertatem, quin &c. Fitzh. prerog. 21.*

Teſte of the Proceſſe.

And the *Teſte* thereof may be vnder the names of ſome two Iuſtices, ſo that it be made ſitting the court in the Seſſions: *Commiſſion del Peace: &* Brooke *Tit. Peace. 6. & 7.*

New commiſſions of Peace do not diſcontinue the old proceſſe.

But now, whereas the Commiſſion giueth to the preſent Iuſtices, authoꝛitie to make pꝛoceſſe vpon Enditements, taken as well befoꝛe foꝛmer Iuſtices, as befoꝛe themſelues: all that doing was woꝛt to be diſcontinued in Lawe by the comming out of a newe Commiſſion of the Peace, vntill that the ſtatute (11. H. 6. c. 6.) did eſtabliſh, that no pleas, ſutes, oꝛ proceſſe (to be taken befoꝛe Iuſtices of the Peace) ſhould be diſcontinued by a newe Commiſſion of the

Peace

Peace to be made: but that they ſhould ſtand in their ſtrength, and that the Iuſtices (aſſigned in the ſame new Commiſſion) ſhould haue power to continue the ſame, and to heate and determine all that which dependeth vpon them. And of the like effect, there is a branch in the latter ende of the Statute, 1. Ed. 6. cap. 7.

Enditement before Shirifs.

Furthermore, whereas Shirifes (and their Bailifes) vſed to arreſt men, and to proceed vpon Enditements founde in their Turnes or Lawdayes: another Statute (made 1. Ed. 4. c. 2.) wringeth that power out of their hands, and deliuereth it ouer to the Iuſtices of the Peace alſo: appointing them to proceede vpon them, as if they had bene founde before themſelues.

Proceſſe of Vtlawrie.

Now, ſeeing that this Proceſſe of the Seſſions is ſent out to this ende, that either the partie ſhall come in, to anſwere & to be iuſticed by the Law: or els that he ſhall (for his contumacie) be depriued of the benefite of Law (for ſo much in effect do the wordes of the Commiſsion, *Quouſque capiantur, reddant ſe, aut vtlagentur*, import in them) it followeth, that in all caſes of Enditements, (if the partie be returned inſufficient) the Proceſſe of Vtlawrie, lieth againſt the offendor, if he be not taken before, or do not otherwiſe offer and yeeld himſelfe. And then the power of theſe Iuſtices endeth with the vtlawrie: for they can make no *Capias vtlagatum*, but muſt certifie the Vtlawrie into the bench of the Queene.

A good while after that Commiſſions of the Peace were firſt awarded, there was not giuen by them any power to make out any Proceſſe of Vtlawrie: for I haue told you of a Commiſſion of the Peace (20. Ed. 3. *Part. 1. Patent. in dorſo*) wherein were wordes authoriſing the Commiſſioners to arreſt all ſuch as ſhould be endited before them: but by and by this followeth, *Et ad nomina eorum qui fugerint, & coram vobis iuſticiari noluerint, certificandum in Cancellaria, &c.* So that, if they might not get them arreſted, they could goe no further, but to certifie their names onely.

The generall Proceſſe vpon Enditements of Treſpaſſe.

Now the meane to this Vtlawrie is not one in all caſes: for, vpon Enditements of Treſpaſſes againſt the Peace, or ſuch other contempts, the Proceſſe is one: and vpon enditements of Treaſon (or Felonie) it is an other.

Vpon Enditements of Treſpaſſe againſt the Peace, of Conſpiracies, and of Routes in preſence of the Iuſtices, or in affray of the people, if the offendours may not be found, nor brought in by Attachment or Diſtreſſe, (by reaſon of their inſufficiencie) the Proceſſe of Vtlawrie is to be awarded by the Statutes, 18. Edw. 3. Stat. 1. & Stat. 2. cap. 5. The like is againſt ſuch as be endited vpon the ſtatute of Liueries, 8. Hen. 6. cap. 4.

And a *Venire facias* firſt, and then (if thereupon he be returned ſufficient) a *Diſtringas*, and ſo

ſo the ſame Proceſſe infinite till he come in: but if a *Nihil habet, &c.* be at the firſt returned againſt him, then a *Capias, alias,* and *pluries,* and after an *Exigent* (as it ſeemeth by M. Marrow, and the olde precedents, agreeing with the Cómon Courſe, as I take it) is the very ordinarie Proceſſe vpon all enditements (not ſounding in Felonie, or greater offence) whether they be of Treſpaſſe againſt the Peace, or of contempt againſt penall lawes: vnleſſe it be otherwiſe ſpecially prouided bd thoſe ſame Statutes, whereupon ſuch Enditements be altogether grounded. And of this ſort theſe be ſome.

The ſtatute (22. Hen. 8. cap. 5.) concerning Bridges in highwayes, alloweth ſuch Proceſſe as the Iuſtices of the Kings Bench doe vſe, or ſuch as the Iuſtices of the Peace themſelues ſhall thinke meete by their Diſcretion, for the ſpeedie amendment of thoſe Bridges. Speciall Proceſſe.

Vpon Enditements of Liueries, maintenance, Archerie, vnlawfull games, &c. by the Statute (33. Hen. 8. cap. 10.) there was giuen one *Venire facias,* one *Capias,* and then the *Exigent:* But it is to be weighed, whether the Statute (37. Hen. 8. cap. 7.) which vtterly repealeth that Statute (33. Hen. 8.) doe tranſferre the maner of that Proceſſe vnto the ancient Quarter Seſſions (as it doth ſundry other parts of the ſaid Statute) or no.

The Statute of Labourers (23. H. 6. c. 13.)

gaue (after Enditements grounded thereupon) an Attachment, *Capias* and *Exigent*: But I thinke it no great doubt, but that point is taken away for Labourers, by the new ſtatute (5. El. cap. 4.) and ſtandeth good for none, except it be for Victuallers onely.

Proceſſe vpon Recognuſance.

The ſtatute 5. E. 6. cap. 25. giueth power to the Iuſtices of Peace, to enquire of Alehouſe-keepers, whether they haue done any act to the breach of their Recognuſance. And if any matter be preſented, then to award Proceſſe againſt the offendor, to ſhew why he ſhould not forfeit his Recognuſance: but what this Proceſſe ſhall be, I will not determine: For, I doe not finde, that in any other caſe (though it appeare that a man hath forfeited his Recognuſance) the Iuſtices of the Peace can award any *Scire facias*, or other Proceſſe to call him in vpon it: but rather to certifie the ſame into higher Courtes, that from thence Proceſſe may iſſue out, to call the partie to his anſwere.

Proceſſe into other ſhires.

Some other ſtatutes there be alſo, that haue extended the authoritie of the Iuſtices of Peace (in ſending proceſſe) beyond the bounds of their owne Commiſsion. For, by the ſtatute (1. Ed. 6. cap. 1.) three Iuſtices of the Peace (the one being of the *Quorum*) may make Proceſſe againſt ſuch as be thereupon endited for depraying the Sacrament by two Writs of *Capias*, and the *Exigent*, and by *Capias vtlagatum*, into any

any place within the Queenes dominions.

So, if a ſeruant depart into another Shire, the Iuſtices of the Peace of that Shire, (where the departure was) may graunt Writs of *Capias*, to the Shirife of that other Shire (where the ſeruant is) returnable before themſelues, 5. El. cap. 4.

The like may they doe (by the Statute 22. H. 8. ca. 5.) where a decaied bridge lieth in one Shire, and the perſon or landes (chargeable thereto) doe lie in an other Shire.

They may alſo awarde Proceſſe of Attachment into any forraine Shire againſt the accountants for money leuied towards the making of any gaole: 23. H. 8. c. 5: & 5. El. c. 24.

But if the Enditement be in one Countie, and the Enditee be named to be (then, or *Nuper*) dwelling in an other Countie, there is a ſpeciall courſe of Proceſſe in that behalfe for his benefit, appointed by the ſtatute (8. H. 6. c. 10.) both for Treaſon, Felonie and Treſpaſſe.

For (before any *Exigent* ſhall be awarded) one *Capias* muſt be ſent out, and returned: and then a ſecond *Capias* ſhall goe (into the Countie where hee is ſuppoſed in the Enditement to be, or to haue bene, conuerſant) returnable before the ſame Iuſtices of the Peace, before whom the Enditement was taken three moneths at the leaſt after the date thereof (for all Counties be now holden from moneth to moneth by

by 2.Ed.6.ca.25.) by which laſt Writ, the Shirife ſhall be commaunded to take the Enditee, if he may be found within his Bailiwike: and if not, then to make Proclamation in two Counties (before the returne of that Writ) that the Enditee ſhall appeare before the ſaid Iuſtices of the ſaid Countie (where the Enditement was taken) at the day contained in the laſt ſaid *Capias*, to anſwere to his offence: at which day if he come not, then the *Exigent* ſhall be awarded againſt him, and otherwiſe not.

And by the equitie of this Statute of 8.Hen.6.cap.10.(ſaieth M.Marrow) if the Enditee be impriſoned in an other Countie, the Iuſtices of Peace may award an *Habeas corpus* to remoove him before them.

But if it be mentioned in the Enditement, that the Enditee is dwelling in another countie, by the *Alias dictus* onely: then is it out of the caſe of that ſtatute, 8.Hen.6: becauſe the *Alias dictus* is not to be trauerſed. 1.Ed.4.1.

Superſedeas to ſtay Proceſſe.

But yet you muſt preſuppoſe that all this Proceſſe of Utlawrie may be ſtaied by a *Superſedeas*. And Fitzh. in his Nat.Br. (fol. 137.) hath the caſe, that if an *Exigent* goe out upon an Enditement of Treſpaſſe (found before Iuſtices of the Peace) the partie may finde ſurties in the Chancerie, (body for body) to appeare at the day of the Writ, and may then alſo haue a *Superſedeas* from thence to the Shirife, commaun-

commaunding him to forbeare to take him, and to let him goe if he haue then already taken him for that cauſe. And againe, you may ſee in the new booke of Entrees (Fol. 546.) the Proceſſe vpon ſuch an Enditement ſtayed by a *Superſedeas* iſſuing from one Iuſtice of the Peace alone, and teſtifying, that the partie came before him, and found ſuerties *de ſine aſſidendo*. But, as I beleeue the former, ſo will I not perſwade the practiſe of the latter: becauſe I thinke it not in the lawfull power of any one Iuſtice of the peace, to award any ſuch warrant, but that it muſt bee done by two Iuſtices at the leaſt, the one beeing of the *Quorum* alſo.

Proceſſe vpon Enditements of Treaſon & Felonies, &c.

I haue yet to ſpeake of Proceſſe vpon Enditements of Felonies, wherein I will be ſhort, that I may paſſe ouer to other things.

It ſeemeth by M. Marr. that the Proceſſe at the common law vpon Enditements of Felonie, was but one *Capias*, and then the *Exigent*. For ſo it was vpon an enditement of death, lib. Aſſ. 22. pla. 81: & Stanf. 67. But the old Precedents (grounding themſelues vpon the ſtatute (25. E. 3. cap. 14.) doe vſe the mention of two Writs of *Capias* before the *Exigent*. For that ſtatute prouideth, that after returne of *Non eſt inuentus*, vpon the firſt *Capias*, another *Capias* ſhall be incontinently awarded, whereby the Sherife ſhall be commanded to ſeiſe the cattels of the Enditee, and ſafely to keepe them, til the day

day of the *Capias* returned: and if hee then alſo returne *Non eſt inuentus*, and the Enditee commeth not in the *Exigent* ſhalbe awarded, and the cattails ſhall bee forfeited: But if hee come and yeeld him, or be taken, before the returne of the ſecond *Capias*, then the goods and cattels ſhal be ſaued vnto him.

Proceſſe into forrein ſhires.

And here alſo the Iuſtices of Peace haue power to ſend into a Forraine Countie: for, whereas by the common Law no man could bee Attached vpon an Enditement, or Vtlawrie of Felonie, but onely in the Countie, wherein hee was endited or outlawed, whereby many euill men were much incouraged: the ſtatute (5. E. 3. c. 11.) did take order, that Iuſtices (aſſigned to heare and determine Felonies) might direct their Writtes to anie Countie in *England* to take ſuch Enditees, whither ſoeuer they were remooued.

On the other ſide, if the Enditement be found in one Countie, and the Enditee is therein named to be then dwelling in another countie: I haue told you already (in this Chapter) what Proceſſe belongeth to it, and therefore I will in hand with Proceſſe vpon Informations.

Proceſſe vpon Informations.

The power of making Proceſſe vpon Informations, proceedeth from ſpeciall Statutes, and may not therfore varie from their direction, although they themſelues doe varie greatly one from another.

For

For vppon an Information giuen for the Queene before Iustices of the Peace, vpon the statute of Liueries (made 8. E.4. cap. 2.) they shall awarde such Processe as is made vpon an Originall Writ of Trespasse done against the Queenes Peace: because the Information it selfe is (by force of that statute) in stead of an Originall Writ. Liueries.

And vpon Information made vnto them, that an Alehouse keeper hath done any acte whereby he hath forfaited his Recognusance, they may (as I said) award processe against him, to shew why he should not forfait his Recognusance, by the statute 5. E. 6. ca. 25. But learne if that bee meant of a *Scire facias*, or of some other Proces. For the rest, I leaue them to further search of such as shall haue cause to marke them. Alehouse.

Of hearing, vpon Confession.

Cap. ix.

THe partie being thus brought in (or otherwise yeelding himselfe) to answere: Iustice requireth, that he bee heard to speake: and therfore he may (as his case will serue) either confesse, or denie, the offence wherewith he is burdened.

And this Confession is of two sortes, Free, or Forced: and that former is of two kindes also,

so, absolute, or after a maner.

Free Confession. In the free and open (or absolute) Confession, he taketh the fault vpon him, and yeeldeth himselfe simply to such paine as the Court wil inflict for it.

And this free Confession is of great force in the Law: for, if it bee vpon an Enditement of Batterie, and (after such confession had for the Queene) the partie beaten will also bring his Action of Trespasse for his owne damage: then shall the defendant be concluded by his former confession vpon the Enditement, so that he shal not be receiued to say the contrary. 9.H.4.8: & 11.H.4.65.

But the other (which I call Confession after a maner) is onely a not denying, in which the partie doeth cunningly, and (after a sort) take the fault vpon him, without confessing himselfe guiltie thereof: as where he putteth himselfe in *Gratiam Regina, & petit admitti per finem*, without any more, or (by Protestation that he is not guilty) pleadeth his pardon: and such a Confession (if I may so call it) doth not so conclude him, but that he may afterward plead Not guiltie in any Action brought against him, 9.Hen.6.60. *Cur.* & 11. H.4.65. And yet (M. 20. R.2. as M. Statham reporteth) the case is generally set downe, that if he once make a fine, he shal be estopped by it. Neuertheless I thinke, that the distinction (which

I

I haue layed) will reconcile the variance.

But heere it is good to learne, whether the Iuſtices be compellable to admit ſuch a confeſſion by a maner, being altogether deuiſed in fauour of offendors, & for deceiuing of the Queen: or whether they may driue the party either to an abſolute confeſſion (for increaſe of the Fine) or to his Trauerſe, that (failing therein) he may be impriſoned, and fined alſo.

The forced Confeſſion whereof I ſpake, is that which the Iuſtices doe wring out of the partie by the Examination of himſelfe, in ſuch caſes wherin that examination is permitted. But becauſe I intend to ſpeake of Examination by it ſelfe, I wil reſerue this till I come to that. Forced Confeſſion.

Of hearing, by Diſcretion.

CAP. X.

Whether the offendor ſhall freely confeſſe the fault, or finely yeeld himſelf to Grace, or pleade his pardon without confeſſing it, yet then is that matter fully heard, and the Court made ready to determine of it: But if he ſhal denie the fact, then muſt ſome other courſe of Hearing (or triall) be taken for it. Deniall of the offence, tried.

And that is in ſome caſes, by Diſcretion of the Iuſtices: in ſome other caſes by Examination

tion of the parties or witnesses: & in some other cases by Certificat of other men: but in most cases by Trauerse or Arraignment, both which last trials are performed by the verdite of twelue.

For Iustices of the Peace cannot (vpon an Inditement of Maiheme) make the Triall by their owne view or inspection, as the Iustices of the Kings Bench may, saith Marr.

The statute (11.H.7.ca.3) pretending, that offences (committed against the statutes of Riots, Retainers, Maintenances, Embraceries, Extortions, Vnlawful games, and such like misdemeanors) were neither accordingly punished before Iustices of the Peace, (by reason of the great corruption and fauour of the Enquests, sworne and charged thereupon to enquire before them) nor could be otherwise conuenently corrected by order of Lawe, vnlesse they were found and presented by twelue men thereto duly sworne: did enact, that from thencefoorth Iustices of the Peace, vpon information made (for the king) before them, should haue full power by their Discretion to heare and determine all offences and contempts against many penall lawes, then in force, and not repealed.

But as one said, *Ex bonis legibus, mala exempla:* So, the parliament (1.H.8.c.1) complained, that many men were deceitfully entrapped, and wrongfully condemned thereby, and therefore it resumed that power: yea, and the king

king withall chopped off the heads of some of them that had filled his fathers purse by the execution of that and some other penall statutes.

So that now againe the Triall of offences, ought (for the most part) to proceed, either after the generall order of the common Law, or vpon such speciall examination (or other proofe) as some statutes do giue in speciall cases: and this hearing (at libertie, and discretion) hath seldome any place.

But wheresoeuer it is permitted, that counsell which M. Bracton (*Lib. 1.*) giueth, is to be harkened vnto: In Iudiciall hearing of a fault (saieth he) besides the body of the fact it selfe, these seuen circumstances are to be weighed, namely, the cause, the person, the time, the place, the quantitie, the qualitie, & the euent.

And for proofe, that hearing by discretion, is yet in some sort suffered, take this for example.

The Iustices of Peace may heare by their discretion, as well by Examination, and otherwise, at the suite of the King, or of the partie, the offences done against the statute prouided for the true making of Tiles, 17. Ed. 4. cap. 4.

But how farre this discretion, and the word Otherwise may be extended in this, and such like cases, it cannot well be foretolde, for it is referred to them, and they must take counsell *ex re, & ex tempore*, for it.

Of

Of Hearing (or *Triall*) vpon *Examination.*

Cap. xi.

THE obstinacie of euill doers, that would shew no cõscience in acknowledging of their faultes, and the corruption of Iurors, that would present nothing that lay onely in their owne knowledges, hath begotten and brought into our Lawe, this trial by Examination wherwith it was not before acquainted.

And yet this manner of Triall is not loosely permitted to Iustices of the Peace, but in cases onely, where, either the Statutes doe generally referre the triall to their Discretions, or else doe specially authorize them to take the Examinations.

Examination of the parties.

The Examination then, is sometimes of the offendors themselues, sometimes of Witnesses that can speake to the matter, and sometimes both of the parties and witnesses: of euery of which I will giue you an authoritie, or twaine, and leaue the rest to your owne reading and examination.

Liueries.

Vpon apparance (after Processe) against the offendours of these Statutes of Liueries, the Iustices of Peace may examine them, & thereupon conuince them so, as if they were thereof

of conuict by Enquest, 8. Hen. 6. cap. 4: & 8. Ed. 4. cap. 2.

They may also cal before them, and examine, all such as shall be suspected to keepe Deere haies, or Buckstals, or that vse to stalke or to take young Herons against this Statute, and may (finding them faultie) commit them to prison, til they finde Suerties to pay the forfeiture, 19. Hen. 7. cap. 11. Deere haies, &c.

And because it is often seene, that those which haue committed an offence, will also increase their fault by denying of the same, therefore some Statutes (as I sayde) doe appoint, that the Iustices of Peace shall take the examination of others, besides the offendours themselues. Examination of others.

And thereupon, the vsers of false priuie tokens, or of counterfait Letters, may be tried out by the examination of Witnesses; 33. Hen. 8. cap. 1. False tokens.

And the vnlawfull Takers of Hawkes egges, or Swannes egges, may be detected and conuinced by information, and such proofs, 11. H. 7. cap. 17. Hawks egges.

Now, whereas also some Statutes doe enable the Iustices of Peace to heare & determine, by the generall vse of the word Examination, without shewing of what persons: it seemeth to mee, that they may thereupon examine, as well the parties, as other witnesses.

Such an one is the Statute prouided for the true making of Tiles. 17. E. 4. cap. 4: Such another is the Statute, made for the examination of offences done by Coroners. 1. H. 8. cap. 7: And such another also, is the Statute ordayned for the examination of putting into Forests or Wastes any stoned Horses beeing vnder the height of fifteene handfuls, 32. Hen. 8. cap. 13.

Coroners.

Stoned horses.

Thus farre of Examinations: which, whether they ought to bee taken vpon oath, or no, you may coniecture by that which I haue alreadie sayde thereof in the seconde Booke: and yet (for more aide towardes your resolution) I say nowe, that these Examinations ought (in my slender iudgement) to bee vpon oath, the rather because the triall heere dependeth vpon them, whereas those others are but to enforme the Iurie towardes an Enditement onely, in so much as notwithstanding the examination so taken, yet the parties are bounde to giue the matter of them in euidence againe, *Viua voce*, when the triall shal be made.

Of

Of Triall (or Hearing) by *Certificate.*

Cap. xii.

Before some other Iudges, the Law hath allowed Triall by sundry sorts of Certificat: as from the Queens Lieutenant, in the case of Escuage: from the Bishop, in the cases of Bastardie, Bygamie, Excommunication, &c. and in some other cases from other men: But, before Iustices of the Peace, I haue not hitherto found any triall by Certificate, appointed by statute, but in this onely case following.

Armour.

If any man (being impeached vpon this statute of Armour, for not hauing his appoynted furniture) shall alledge, that the same furniture so lacking, could not be conueniently prouided, for want of the same within the Realme: this shall be taken for a good answere (in case it bee true) but if it be denied or trauersed, issue shal be ioyned vpon it, and the Triall shall be onely by Certificat to be made by the L. Chancellor, L. Treasurer, L. President of the Counsell, L. Steward of the Queenes house, L. Priuie Seale, L. Admirall, and L. Chamberlaine of the said houshold, or by three of them, in writing vnder their Seales. 4. & 5. Phil. & Mar. cap. 2.

Alehouse.

As for the Certificat of the offence, and of the Recog- keeper,

Recognuſance taken by two Iuſtices of the Peace (one being of the *Quorum*) of him that hath obſtinately kept a common Alehouſe againſt the Statute, 5. Ed. 6. ca. 25. that is made a ſufficient conuiction of the ſame offence, without further Triall thereof to be had at the Seſſions of the Peace: the which, and the reſt of that ſort, I doe therefore ouerpaſſe here.

Of Hearing (or *Triall*) by Trauerſe.

Cap. xiii.

The moſt ſolemne and auncient Trial of the fact, againſt an offendour that will not confeſſe it, is that which wee ſee performed by the verdite of twelue good and lawfull men of the Countrie: and it alſo doeth beſt content and quiet the guiltie man, for that it paſſeth by his owne Countrimen, Neighbours and Peeres, according to the auncient libertie of the land, whereunto euery free borne man thinketh himſelfe inheritable.

And thereupon it is named (Mag. Cart. cap. 29.) *Legale iudicium parium ſuorum*, the lawfull iudgement of a mans owne Peeres or Equals: becauſe, as the Nobilitie, ſo alſo the Communaltie, are to be tried, in treaſon, felonie, or miſpriſion of treaſon, not the one by the other, but each by men of their owne eſtate and calling:

calling: I meane by the worde Nobilitie, as our owne Lawe ſpeaketh (which calleth none Noble vnder the degree of a Baron) and none as men of forraine countries doe vſe to ſpeake, with whom euery man of Gentile birth is accounted Noble: for wee daylie ſee, that both Gentlemen and Knights doe ſerue in the Parliament, as members of the Communaltie.

Howbeit, in caſes of forcible Entrie, Riot, Rout, vnlawfull aſſemblie, or ſuch like, they of the Nobilitie ſhall be tryed by twelue men, as well as other inferiour ſubiects. 3. & 4. Phil. & Mar. reported by Dalyſon.

This Triall happeneth before Iuſtices of the Peace, ſometimes vpon Trauerſe, and ſometimes vpon Arraignment.

But yet, ſome things be common to them both: For, if the partie charged, will Demurre in Law vpon the euidence, the Iuſtices ought to record his Demurrer: So, if he will plead (in Juſtification) any matter of Record that is before other Iuſtices, they ought to giue him day to bring it in. Marr. So alſo, if the Iuſtices (thinking an enditement to be void) haue diſcharged the priſoner, paying his fees: yet, vpon change of their opinion, they may ſtay him againe, at any time before Iudgement. Fitzh. Endit. 27.

But if hee pleade a Pardon before them, in which certaine perſons bee excepted, and the Queenes Atturney is not preſent to ioine iſſue,

that he which pleadeth it is one of thoſe that bee excepted, then they themſelues may ſupply the office of the Atturney, in that behalfe. 8.E.4.7.

The Queens aduantage.

Whereupon alſo I gather this generall learning, That they ought not to ſuffer the Queen to be diſaduantaged, where it lyeth lawfully in their power to preuent it.

And if an Inditement bee challenged, for ſuch cauſe as theſe Iuſtices will not allowe, then may they ſeale a Bill of that exception for the partie, if he will write and require it according to the Statute, W.2. cap. 30 as M. Marrow writeth.

Trauerſe.

The Trauerſe tooke name of the French, de Trauerſe, which is none other then *de tranſuerſo*, in Latine, ſignifying, on the other ſide: becauſe, as the Enditement on the one ſide chargeth the partie, ſo hee on the other ſide commeth in to diſcharge himſelfe. For, whereas the Arraignment proceedeth vpon him that is vnwillingly brought in by proceſſe, the trauerſe is (for the moſt part) freely tendered by the partie ſelfe.

To Trauerſe an Enditement then, is to take iſſue vpon the chiefe matter thereof, which is none other to ſay, then to make contradiction, or to deny the point of the Enditement. As, in a preſentment againſt A. for a high way ouerflowen with water for default of ſcowring a ditch, which he, and they (whoſe eſtate he hath in certaine

taine land there) haue vſed to ſcowze or cleanſe: A. may Trauerſe, either the matter (viz. that there is no high way there) or that the ditch is is ſufficiently ſcowzed: or otherwiſe, hee may Trauerſe the cauſe, viz. that hee hath not that land, &c. or that he and they (whoſe eſtate, &c.) haue not vſed to ſcowze the ditch. 5. H. 7. 3.

And this libertie of Trauerſe is commonly reſtrained to Enditements of Treſpaſſes, Contempts, Riots, and other inferiour offences, within the Commiſſion or Statutes, authorizing the Iuſtices of Peace: and is not vſually extended to Treaſons or Felonies, as you ſhall hereafter ſee.

Trauerſe before Iuſtices of the Peace.

M. Brooke noteth, that it is not much vſed to Trauerſe Enditements before Iuſtices of the Peace, but rather to remoue them into the Kings Bench, and to trauerſe them there: Howbeit, common experience at this day can ſhewe many Trauerſes before Iuſtices of the Peace alſo.

And there is no doubt, but that as Iuſtices of the Peace haue power to awarde Proceſſe, and the parties alſo haue libertie to ſpeake for themſelues: So (hauing ſpoken) the Iuſtices may Heare and Determine of their ſpeach, whether it touch them in freehold or otherwiſe.

For although it be holden (2. R. 3. 11: 19. H. 8. 11: & Fitz. tit. Aſſ. 442: and in other bookes) that a man ſhall not bee receiued to trauerſe a

Preſentment, vnleſſe it doe charge him in his freehold: yet Huſſey and Fairefaxe ſaid (5.H. 7.4.) that a preſentment (not concerning freehold) which is found before Iuſtices of the peace, may be trauerſed: and whether they meant it of a Trauerſe in the Kings Bench, or before Iuſtices of the Peace, it maketh no difference, becauſe the reaſon is all one, that is, If Proceſſe be awarded, the partie may come in, and offer his Trauerſe, and otherwiſe the proceſſe ſhould be in vaine.

Hereunto agreeth Moubray (41. E. 3.26.) ſaying further, that in a Leete ſuch a Preſentment is not Trauerſable, becauſe out of a Leet no Proceſſe can bee awarded vpon it. And this peraduenture is the reaſon of the booke (8. Ed. 4 cap. 5. and of M. Marr.) where they ſay, that a Preſentment of bloudſhed found in the Sheriffs Turne, and ſent (as it ought to be) to the Iuſtices of Peace, cannot be trauerſed before them, as whereupon they can neither make Proceſſe, nor diſcharge the partie by way of Plea.

So that this ſeemeth a generall learning, that whereſoeuer any Proceſſe *ad reſpondendum*, goeth out vpon ſuch an Enditement as is trauerſable, there alſo the partie may offer, & ought to haue, his Trauerſe againſt it.

But Marrow ſaith, that if a man bee of an Enqueſt that endited him of Treſpaſſe, or ſuch like (ſo that vpō the matter, he endited himſelf) this

this is ſo ſtrong, that he ſhall neuer be receiued to Trauerſe,

It is not my meaning to peſter this Booke with Precedents: But yet, forasmuch as in the Record of one Trauerſe, there is at once diſcouered, the Stile of the Seſſions, the Enditement, the Proceſſe to answere, the Trauerſe it ſelfe, the Verdite, and Iudgement thereupon, the proceſſe of execution, the yeelding of the parties, and the aſſeſſement of their fines: ſo that it alone may ſerue in ſtead of all, I truſt it ſhall not be troubleſome to inſert it.

Somerſ. *Seile* of the *Seſſions.*

ALias, ſcilicet ad Seſſionem pacis, tentam apud Bridgewater, *in comitatu prædict die Martis proximè ante feſtum Sancti Matthai Apoſtoli, anno regni Dom. noſtræ* Elizabethæ *Dei gratia, Angliæ, Franciæ, & Hybernia Reginæ, fidei defenſoris, &c. viceſimo, Coram* Iohanne Stowell *militè*, Humfrido Walron *vno magiſtrorum Curiæ Cancellariæ dictæ dom. Reginæ, & alijs ſocijs ſuis Iuſticiarijs dictæ dominæ Reginæ ad pacem in comitatu prædicto conſeruandam, Necnon ad diuerſa felonias, tranſgreſſiones & alia malefacta in eodem comitatu perpetrata audienda & terminanda aſſignatis, per ſacramentum 12. Iuratorum extitit præſentatum, quod* Iohannes Long, *de &c.* R. M. *de &c.* & T. L. *de &c. cum diuerſis alijs ignotis malefactoribus, & pacis dict. dominæ Reginæ perturbatoribus,*

batoribus, modo guerrino arraiati, uniti, & aſſemblati, viceſimo die Iulij in nocte eiuſdem diei, anno &c. Vi & armis (viz.) Baculis, gladijs, clipeis, pugionibus, falcaſtris, & alijs armis, tam inuaſiuis, quàm defenſiuis, apud C. *&c. clauſum cuiuſdam* Wil. Willet *(vocatum* B.*) illicitè, riotosè, & routosè, fregerunt, & intrauerunt, & octo plauſtra fœni* ad valenciã, &c *ad tũc & ibidem exiſtẽtia, de bonis & catallis dicti* Willihelmi Willet *ad tunc & ibidem iniuſtè & illicitè ceperunt & aſportauerunt, contra pacem dictæ Dominæ Reginæ, &c.*

Proceſſe to anſwere. Et contra formam Statuti inde editi & prouiſi. *Per quod præceptum fuit vicecomiti quod non omitteret, &c. quin venire faceret eos ad reſpondendum, &c. poſteáq; ſcilicet prædicto die Martis proximè ante feſtum Sancti Matthæi Apoſtoli anno viceſimo ſupradicto, coram præfatis Iuſticiarijs venerunt prædicti* I.L. R.M. *&* T.L. *in propriis perſonis ſuis, & habito auditu Indictamenti prædicti, ſeparatim dicunt, quod ipſi non ſunt inde culpabiles,*

Trauerſe. *Et de hoc ponunt ſe ſuper patriam: Et* Adam Martin, *qui pro Domina Regina in hac parte ſequitur ſimiliter &c: Ideo veniat inde Iurata coram Iuſticiarijs dictæ Dominæ Reginæ ad pacem in comitatu prædicto conſeruandam aſſignatis,*

Iurie. *&c. ad Seſſionem pacis apud* Welles, *&c. die Martis proxime poſt Epiphaniam Domini tunc proxime futuro tenendam. Et qui, &c. Ad recognit. &c. Quia tam &c. Idem dies datus eſt*

Day giuen. *tam præfato* Adam Martin *qui ſequitur, &c.*

quàm

quàm præfatis I.L.R.M. & T.L. &c. *Ad quas quidem Seſſiones pacis, tentas apud* W. *prædict. in comitatu prædicto die &c. Coram Domino* T.P. G.N. & H.P. *milit. & ſocijs ſuis Iuſticiarijs dictæ Dom. Reginæ ad pacem in comitatu prædicto conſeruandam, Necnon ad diuerſa felonias, tranſgreſſiones, & alia malefacta in eodem comitatu perpetrata audienda & terminanda aſſignatis, venerunt tam præfatus* A.M. *qui ſequitur &c. quàm præfati* I.L.R.M. & T.L. *in propriis perſonis ſuis, Et Iuratores prædicti per vicecomitem comitatus prædicti ad hoc impanellati, & exacti (viz.)* Iacobus F. Gen. I.G. &c. *ſimiliter venerunt, qui ad veritatem de præmiſſis dicendam triati & iurati dicunt ſuper Sacramentum ſuum,* Verdite. *quod prædicti* I. L.R. M. & T. L. *culpabiles ſunt, & eorum quilibet culpabilis eſt de tranſgreſſione, contemptu, & riotto prædictis in Indictamento prædicto ſuperius ſpecificatis, modo & forma prout ſuperius verſus eos ſupponitur : Ideo conceſſum* Iudgement. *eſt per curiam, quod prædicti* I. L.R.M. & T.L. *capiantur ad ſatisfaciendum dict. Dominæ Reginæ de finibus ſuis occaſione tranſgreſſionis, contemptus & riotti prædict. Qui quidem* I. L. R. *Capias pro fine.* M. & T. L. *ad tunc & ibidem præſentes in Curia petierunt ſe ad finem cum dicta Domina Regina occaſione prædicta admitti : Et inde ponunt* Fine aſſeſſed. *ſe ſeparatim in miſericordiam* D. R. *Et aſſeſſatur finis eiuſdem* I. L. *per Iuſticiarios prædictos, ad 3. libr. 6. ſol. 8. denar. Et finis eiuſdem*

Ponunt ſe in miſericordiam Reginæ.

R.M.

R. M. *Assessatur ad 20. solid. Et assessatur finis eiusdem* T. L. *ad quinq; libras, bonæ & legalis monetæ Angliæ, ad opus & vsum dictæ Dom. Reginæ.*

Enditement voyd.

And this is to be noted, that this Record was afterward remoued into the Kings Bench, and that the partie was dismissed there, for want of those wordes in the Enditement, that you see vnderlined in other letters, in two speciall places of the same.

Of *Triall* vpon *Arraignment*, and therewithall of the *Triall* of *Felonies*, and what Pleas or other helps may be vsed therein.

Cap. xiiii.

Difference betweene Trauerse and Arraignment.

ARraignment and Trauerse, doe not so much differ in the nature (or substance) of the Triall it selfe, as in the order or vsage of the same. For as there is no Enditement, Trauersable by the partie, but that he may also be arraigned vpon it: So likewise is there no enditement, whereupon the partie may be araigned, but that hee may also (if he wil) tender his Trauerse vnto it.

The difference then standeth in this, that commonly, he (which is to be arraigned) commeth in by compulsion of bond, or Processe, and is

is touched with matter concerning life & death, or some such hainous offence, and pleadeth generally Not guiltie to the Enditement.

Commonly I say, because although he come in freely, or be endited of some inferiour offence, yet he may be neuertheleſſe arraigned: neither is he of neceſſitie driuen to plead Not guiltie (which runneth to the fact) but may (if the caſe will ſuffer) plead a Iuſtification or matter in Law, though it be in caſe of Felonie.

It ſeemeth to haue borrowed the name out of the word Array, either of the pannel or Iurie: becauſe he that is arraigned, muſt be tried by them, being firſt called, arraied, ſworne, and tried, in order for that ſeruice: or els, of the array of the priſoners, that be peruſed and arraied in order before they come to triall.

If I ſhould here rippe vp, and proſecute at full (as the place offreth me occaſion) the whole learning that belongeth to the Arraignment and Triall of Felons, as well for the taking of Chalenge and pleading of Iuſtification, matter in lawe, pardon, an other time acquite, and an other time attaint: as alſo for the hauing of Sanctuarie, and ſauing by clergie: I ſhould but *Actum agere*, and yet not doe it halfe ſo well as you may finde it in M. Stanford: beſides the which, I ſhould endeuour to teach them, of whom I my ſelfe may better learne, ſeeing that the vſe of theſe matters is either reſerued

ſerued till the comming of the graue Iuſtices of gaole deliuerie, or els is perfoꝛmed by other men of lawe that can enfoꝛme themſelues ſufficiently therein. And yet conſidering that theſe things doe many times fall in vſe, and that it were vnſeemely foꝛ our Iuſtice of the Peace to be altogether ignoꝛant therein, I will ſhoꝛtly runne ouer them, if firſt I may offer to conſideration a point oꝛ twaine, whereof it peculiarly behoueth our Iuſtices to be aduertiſed.

Felonies not triable before Iuſtices of Peace.

The firſt thing is, that there be ſundꝛy Felonies, and ſome Enditements of Felonies alſo, the which (as it ſeemeth to me) Iuſtices of the Peace cannot heare, oꝛ trie at all: the ſecond, that in the handling of thoſe very Felonies wherewith they may deale, there be yet certaine conſiderations peculiar to the Iuſtices of the Peace onely, and not common to them with other Iudges.

Of that firſt is the Felonie foꝛ Forgerie by the Statute (5. Eliz. cap. 14.) after conuiction foꝛ a foꝛmer offence: and that Felonie (after a foꝛmer conuiction alſo) foꝛ ſlaunderous ſpeach againſt the Queenes Maieſtie, in offence of the Statute made 23. El. cap. 2.

Neither doeth the hearing and triall of that Felonie of a ſeruant (taking the goods of his maſter after his death,) belong (as I haue ſaid) to the Iuſtices of Peace in the Countrey: becauſe they cannot take notice of his default in the

the Kings Bench, by which default it first begimeth to be Felonie: (33.Hen.6.cap.1.)

The like, though for vnlike reason, is to be said, of the Felonious embezelling of any the Records of the Courts at *Westminster*, against the statute 8.Hen.6.ca.12. And of an Accessarie in one Countie, where the Felonie was done in an other Countie, vpon the Statute 2.& 3. Ed.6.cap.24.because the iurisdiction ouer these Felonies, is not committed to the Iustices of Peace, but remitted to other Iudges, by the very same Statutes.

And so of the Felonie of conspiring the death of the King, or of any Lord of the Realme, or of any of the Kings Counsel, or of the Steward, Treasurer, or Controller of the Kings house, because it is to be tried by them of the Checkroll of the same householde. 3.Hen.7. cap.14.

Furthermore, they can not make Triall of such as were endited of Felonie before the Coroners, or, before the Iustices of Gaole deliuerie, or of Oyer and Terminer, if the same persons were not Iustices of Peace also in the same Shire, so as the Enditements may be vnderstoode to be taken by them as before Iustices of the Peace: for their Commission and authoritie extendeth onely to such as stand endited, before themselues, or former Iustices of the Peace, or the Sherife in his Turne.

Thus

Things peculiar to Iustices of the Peace in the triall of Felonies.

Thus farre of the first point: Touching the second it seemeth, by Marr. (and M. Fitzh. Fol. 16.) that albeit two Iustices of the Peace, (the one of them beeing of the *Quorum*) may heare and trie Felonies: yet no Iustices of the Peace haue authoritie to deliuer Felons by Proclamation, or without sufficient acquitall: nor yet to deliuer such as bee in prison for suspition of Felonie.

For they must proceede by enquiring, hearing, and determining, as their Commission appointeth them, and not ridde the Gaole otherwise, as the Iustices of Gaole deliuerie may do. And therefore, such persons, (if they cannot be endited) must eyther remaine the comming of the Iustices of Gaole deliuerie, as the common maner now is, or els (being remoued into the Kings Bench) they are either to bee deliuered thence vpon the Writ *de gestu & fama*, as the olde order was, or by such other meane as they at this day doe vse there.

These Iustices can take no appeale of any approuer, nor other, before them, say all the Iustices of the Common place, 2.H.4.19: and so is it clearely holden, 9.H.4.1: because their Cómission stretcheth not so farre, but onely to such Felonies as fall out by Enquirie before themselues, or their former fellow Iustices, howsoeuer the booke (44.E.3.44. vpon the Statute, 5.E.3.c.11.) or the Statute (8.H.6.cap.10.)

may

may seeme (to a running Reader) to allow that power vnto them. And therefore M. Stanford (fol. 95.) worthily doubteth of this matter.

But howsoeuer that be, yet seemeth it to me no lesse reasonable, then seruiceable, that if one Felon will accuse another before Iustices of the Peace, they may take his confession and repry him, and thereupon cause the other to be enquited of, and so proceed against him.

Furthermore, they cannot arraigne a man vpon his abiuration, saith Mar.

It hath also bene thought vnmeete, that they should trie a felon the same day in which they awarded the *venire facias*, against the Iurie. 22. Edw. 4. 44. Fitzh. *Tit. Corone 44.* but that hath no necessitie, and the lawe is nowe otherwise taken.

Marrow saieth, that they cannot award the Writ, *Venire facias tot matronas*, to trie whether a Woman (arraigned before them) be with childe, or no: but, seeing it standeth with lawe and reason, to stay her for the time (that the child may be preserued) I can not but doubt of his opinion.

They may giue Cleargie to a Felon, if the Ordinarie (or his Deputie) be present to take him: but if they be absent, he must be repried, because (as Marrow saith) these Iustices can set no fine vpon the Ordinarie, for his absence: no more, then if hee will accept one to reade as a

Clarke, where in trueth he cannot read at all. But if you looke vpon M. Stanford (lib. 2. cap. 45.) he will perswade you, that the Ordinarie is not the Iudge, but a Minister, in the triall of Cleargie: and that Cleargie may lawfully be giuen and allowed in his absence.

Of the Fine for his default at these Sessions, I am a litle doubtful, as I haue said before: but touching the allowance of Cleargie to the offendor, I see no cause at all, why it may not belong to the Iustices of Peace as well as to other Iudges: seeing that they be Iudges of the felonie, as other Iustices are: and otherwise all men might be defeated of that priuiledge.

Marrow saieth also, that if Bigamie (that vngodly and Popish counterplea) had bene alleaged against one that prayed his Cleargie, the Iustices of Peace could not haue written to the Ordinarie to certifie the same. But let that passe, as not worth the debating.

And if a man (outlawed of Felonie by Processe before the Iustices of Peace) be brought before them, and do alleage, that he was (at the time of the Utlawrie pronounced) out of the Realme in the Queenes seruice vnder such a Captaine: or that he was then imprisoned in another Countie: they can neither write to the Captaine, nor into the Countie, by the opinion of Marrow.

But I wil acquaint your consideration with the

the Statutes (22.H.8.c.14: & 32.H.8.cā,3.) where you may reade to this effect. All maner of foreine pleas (triable by the Countrie) hereafter to be pleaded by any person, or persons araigned vpon any Inditement for any petite treason, murder, or felonie, shall forthwith be tried before the same Iustices afore whō such persons shalbe arraigned, and by the same Iurors of the same Countie that shal trie the said petite treason, murder, or felonie, without any further respite or delay, in whatsoeuer place of the Realme the matter of the same pleas be supposed, or alleadged.

Thus much onely, of things restraining the Iustices of Peace in the Triall of Felonies: wherin also they are not now adaies much occupied, the rather because they deferre it til the cōming of the Iustices of Assise, by reason that the statutes (1.& 2.Ph.& Ma.c.13:& 2.& 3.Ph.& M.c.10.) do enioine them, to Certifie at the next generall Gaole deliuerie, both the Examinatiōs and bonds that they shall take, concerning Felons and suspects that are brought before them.

This I may adde (not as a restraint, but for an enlargement of the authoritie of Iustices of the Peace) that if they see cause, and doe write to the Clarke of the Crowne of the Kings Bench, for the names of any persons being otherwhere attainted of Felonie by Vtlawrie, or being clarkes conuict or attainted: he ought

(without delay, and vnder the paine of xl.s.) to certifie the same vnto them, together with the causes of such attainder, or conuiction, 34. Hen. 8. cap. 14.

These things thus premised, Let vs now suppose all impediment to be remooued, and set we the Felon at the barre, readie to take whatsoeuer aduantage of Chalenge, plea, or other benefite that may be allowed vnto him.

Chalenge. It was euer permitted, that the Prisoner might chalenge so many of the Iurie as he would (shewing lawful cause for it) as namely, to say, that he (whom he chalengeth) was one of the Iurie which did endite him: for, of such an one it may be thought, that he will not falsifie his former oath. 25. E. 3. ca. 3: or to say, that he hath not lands of the cleare yerely value of fourtie shillings: for, such an one is disabled. 2. H. 5. c. 3: except it be in Cities, or such other franchises, where the value is measured by fortie pound of goods mooueable 23. Hen. 8. cap. 13: or to say, that he is not *probus*, or *legalis*, because he hath bene attainted of Felonie, Forgerie, Periurie, or of such like as are shewed before.

The common law hath also (in fauour of life) allowed vnto the prisoner his peremptorie chalenge, without shewing any cause for it. But yet, forasmuch as it was long time doubtfull, how many he might so chalenge, the same was put into certaintie (by the Statute, 22. Hen. 8. cap.

cap. 14.) and restrained to the number of 20. persons at the most.

Now if the triall be of an Alien borne (for Felonie, or Murder committed by him) the Jurie shall be *de medietate lingua*, that is, halfe of our Nation, and halfe of Strangers: except it be in the case of a Scot, whose Jurie shall be altogether English, as well because he speaketh our language, as also for that he is reputed a subiect, and not an alien. *Collectum Dyar.* 304: & 357.

This shortly of chalenge: which is but dilatorie, and to winne time: and therfore let vs now heare what he may plead in chiefe as it were, and for the safetie of his life.

If the prisoner haue bene at any time before lawfully acquited of the selfe same Felonie, or haue bene orderly attainted of any other felonie, he may safely rest vpon it. For, as it is vnreasonable, to draw a mans life into double danger for one single offence: So is it also vnprofitable, to condemne him that is alreadie attainted. *Corone* Fitzh. 132: & 28. Ed. 3. 90. And for the proofe of either of these his allegations, the Iustices ought to allow vnto him conuenient time for the bringing in of the Record of the court where he was so acquited, or attainted. *Corone*. Fitzh. 232. An other time acquite.

But because each of these two points hath his seuerall cõsideration in that which doth remaine,

 Another time acquite, I also will hencefoorth handle them apart.

If the prisoner be now arraigned of a Felonie, by the name of A. B. (by which name, as also by the name of A. C. he is well ynough knowen) then may hee say, that he was before time acquited of the selfe same Felonie, before such, or such Iustices, by the name of A. C. auerring that he is the same person, and that he is knowen by the one and the other calling. Lib. Ass. 26. pla. 15. & 11. Hen. 4. 93. So, if he be arraigned of the Murder of a man (supposed by the Enditement to be slaine in the 30. yeere of her Maiesties raigne) he may plead, that he was before time acquited of the Murder of the same man, auerring that he was slaine in some other yeere, Lib. Ass. 22. pl. 55. For, as in the former case, the same man may beare two names: so, in the latter, one person cannot be twise killed.

But if the Felon were first acquited vpon an Enditement, which did not comprehend sufficient matter of Felonie in it: that will not helpe him now, because his life was neuer put in ieoperdie thereby: in so much as if he had bene found guiltie thereupon, yet the Court would haue deliuered him, Stanford 106. Howbeit, if the Enditement had good matter in it selfe, then may no Errour (committed in the Processe) take the benefite of this plea from him, seeing that he was arrained vpon the Enditement,

ment, and not vpon the Proceſſe. 9. Hen. 4. 1. & *Corone* Fitzh. 444.

Againe, if he that ſtole goods were acquited in a Countie where he ought not to haue bene tried for them, that is no lawful acquitall to ſaue him from trial now: no more, then if a man were acquited of murder in an Appeale, at the ſuite of a ponger brother during the life of the elder: that is of no ſuch force, but that he ſhall be arraigned at the ſuite of the Queene againe. Stanf. 105. & 106: & 21. Hen. 6. 31.

Laſtly, he that is acquited as principall to a Felonie, may neuertheleſſe be arraigned as an Acceſſorie (after the offence done) to the ſame Felonie: becauſe it is not the ſame, but another ſubſequent, and diuers offence. And yet, ſhall he neuer be arraigned, as an Acceſſorie (before the offence) to the ſame Felonie: becauſe, (as I haue ſayd heretofore) the Acceſſories before the offence, be the very cauſes of the fact, and doe (as it were) inſeparably concurre with the principall, and be preſent with him in the doing of the ſame. Lib. Aſſ. 27. pla. 10. & Stanf. 105.

Now on the other ſide, ſince nothing can be had of him that is already attainted, & hath therby loſt whatſoeuer he might forfaite: it hath alwayes bene thought meet to allow him to plead it: & it is to no purpoſe to arraigne him of new, for that, or for any other Felonie, except it be in

Another time attainted.

aſpecial caſe, or two, for the benefit of other perſons, which M. Stāford hath briefly noted for vs,

The firſt, is for the aduantage of the Queene: For, if he that is attainted of Felonie, hath alſo committed Treaſon, then may he be arraigned of the Treaſon, notwithſtanding the former attainder, to the ende that her Maieſtie may haue her prerogatiue in the Eſcheat of all his lands, of whatſoeuer other lords they ſhall be holden, 1. H. 6. 5. And yet, if that Treaſon were committed after the attainder for the Felonie, then (in the opinion of M. Stanf.) the title of Eſcheat (which by that attainder did accrew to the other lords) can not be deueſted and taken from them, by the ſubſequent Treaſon,

The ſecond is, for the commoditie of Subiects, as in caſe where diuers men be robbed of their goods by a Felon: there (though he be attainted at the ſuite of one) yet ought he alſo to be attainted at the ſuite of the reſt: that each one of them may therby haue reſtitution of his goods, whereof otherwiſe (for want of ſuite) he ſhould be denied. Stanford. 165.

But now, if he that was thus attainted, do afterward obtaine pardon of that felonie whereof hee was attainted, then is he reſtored to the law, and is made anſwerable to all other Felonies that were committed by him, before the time of that Felonie, whereupon his attainder was grounded. 6. Hen. 4. 68.

And

And if a man doe commit two sundry Felonies, and (being arraigned vpon the one) standeth mute at the barre, and hath therefore his iudgement to be pressed: yet may he be arraigned vpon the other Felonie, notwithstanding the former iudgement: because it is none attainder at all for his offence wherwith he was charged, but onely a punishment inflicted by the law vpon his contumacie and stubburne silence. Collection Dyar, 308.

With this there was wont to be matched the plea, That the prisoner was another time conuict of Felonie, and delivered to the Ordinary to make his purgation: which also was of equall force (with the former plea) to saue him from new arraignment. But the lawe of our time hath worthily taken that plea from the offendor, and the offendor himselfe from the power of the Church. Another time conuict.

For, as the allowance of the booke proceeded from the pride of Churchmen: Euen so were these conuicts ridiculously purged by them. For which cause, the Statute (18. Eliz. cap. 6.) hath ordained, not onely that (after allowance of Cleargie, and burning in the hand) the prisoner shalbe enlarged: but also that he shall be put to answere to all the other Felonies, whereof hee is not before acquited, conuicted, attainted, or pardoned. And therefore, leauing it, let vs see how the offendour may bee holpen by pleading,

and

and praying allowance of the Queenes pardon.

Generall Pardon.

The pardon whereof the partie may haue aduantage, is either generall, or speciall: by generall I doe here meane that, which is giuen by Parliament to all men generally, or with the exception of some few persons. And of this pardon the court ought of duetie to giue allowance, though the partie neither pleade it, nor will accept the benefite of it. But, if it make speciall exception of some persons, then must the prisoner alleage that he is none of those that be excepted, vnlesse the act it selfe doe say, that he shalbe holpen by it without any such pleading. 11. H 4. 39. & Stanf. 103.

Touching this sort of pardon, I will onely lay downe these few cases: The seruaunt (that had killed his master) was endited of voluntary murder, without the word proditorie, and was thereupon arraigned, and found guiltie. But because the offence was petite treason indeed, and petite treason was then pardoned by the Parliament (5. Eliz.) though murder were therein excepted, Iustice Welsh thought it meete to repriue the prisoner, without giuing iudgement vpon him. Col. Dyar. 235.

A man stroke an other in Febr. (13. Eliz.) whereof hee dyed in Iune next following, in which meane while all Felonies, offences, iniuries, and misdemeanours, were pardoned by Parliament:

Parliament: and he was discharged by that pardon, because the stroke was the offence against the Queene, and that was past and pardoned though the death did afterward ensue vpon it. *Comment. 401.*

One that had committed Manslaughter, was endited of murder, and thereupon vtlawed: afterward, the parliament pardoneth all offences, &c. except persons vtlawed, or attainted of murder: the partie reuerseth the vtlawrie, and then is arraigned of manslaughter: and it was much doubted, whether he should bee discharged by the pardon, because the persons vtlawed were excepted, whereas if the offences onely had bene excepted, it woulde haue made no great question. 29. Eliz. Report Crompton.

The speciall pardon, ought to bee pleaded vnder the great Seale of England: for, that authoritie which some subiects in ancient time had to graunt pardon, is resumed by the Statute, 27. H. 8. cap. 24. Speciall pardon.

And with this pardon, the partie ought to bring a Writ of allowance, testifying that hee hath found suerties for his good port, according to the Statute, 10. E. 3. c. 2. Howbeit, that matter is many times dispensed withall, by meanes of a *Non obstante*, that may be put into the pardon *Com. 502.* But let vs yet see, what the pardon hath within it.

If

If the pardon doe agree with the Enditement, as well in the name, ſurname, and addition of the partie, as alſo in the point of the offence that is to be pardoned: then is there nothing to be ſaid againſt it. But, if the pardon be of all Felonies, that will not diſcharge him of petite treaſon, nor murder at this day (except it containe them in ſpeciall wordes) although before the Statute (13. R. 2. Stat. 2. c. 1.) ſuch a pardon was auaileable inough for them. Neither is ſuch a pardon ſufficient to ſaue the life of him that is attainted of Felonie, vnleſſe it haue wordes to pardon the attaindor, and execution. 9. Edw. 4. 29. No more, then a pardon of the attaindor and execution, will deliuer him without words to pardon the Felonie it ſelfe, 8. H. 4. 21. So, where the partie is abiured for the death of a man, the pardon muſt of neceſſitie carry words of abiuration. *Coron.* Fitzh. 124.

And if the Queene doe pardon to a Gaoler, the eſcapes of priſoners being in his warde for Felonie or treaſon: that ſhall extende to negligent eſcapes onely, and to none other *Grants*, Fitzherb. 37. So if ſhe pardon two men all Felonies done by them, or any of them, that will not ſerue them apart, becauſe the firſt words be ioynt, and not ſeuerall, whereas all felonies be of themſelues ſeuerall. 22. E. 4. 7. For, in all theſe, and the like caſes, howſoeuer the fauour of life may deſire liberall interpretation: yet (for al-

much

much as the offence is against law) the grace and dispensation of the Prince may not be strained beyond the words.

The last helps for the prisoner, be Sanctuarie and Cleargie, where his case will afforde him the one, or the other of them. For, if he were taken out of Sanctuarie, he ought to pray (at the first) to be restored: and if he can read, hee may (at any time) desire of the Iudge the allowance of his booke. Sanctuarie & Cleargie.

How each of these began at the first, and grew in time to be full summed, or how they shrunke againe, and how their gaiest feathers were at last (by one and one) pulled from them: I may not here stand to discourse, though it bee a piece, worthie both the handling and hearing. But, inasmuch as our Statutes doe manie times match these twaine together, I will likewise draw them forth, as I shall fall vpon them, shewing you where the one or the other, or both, be denied to the prisoner.

Where Cleargie lieth, it is grauntable but once to one person, except hee bee within holy orders: for such an one may haue it often. 4. H. 7. c. 13: 1. E. 6. c. 12: & Stanf. 135. Once, or moe times.

Bigamus, (that is to say, he which hath beene twise maried, or which hath maried a widowe) may haue his Clergie at this day, though in old time it were a good counterplea against it. Collect. Dyar. 201. Bigamy.

It

Baſtard. It was woont to be doubted, whether a Baſtard might haue the benefite of clergie: becauſe he could not be a Prieſt without ſpeciall diſpenſation. Brooke, Baſtardie. 46.

Woman. And it was agreed by all the Iuſtices (2. & 3. Phil. & Mar.) that a woman ſhall haue none allowance of Cleargie: but ſhe may haue (for once onely) the benefite of her belly, if it be found by women thereto appointed that ſhe is with child. Report Dalyſon.

Witches, &c. Coniurers, or Witches, their aiders or counſellors, ſhal neither haue Sanctuarie, nor Clergie. 5. Eli. cap. 16.

Ieſuits, &c. The Receiuers (or aiders) of Seminarie prieſts, or Ieſuites, are to be denied the fauour of Cleargie. 27. Eli. cap. 2.

Take caſtles. Such as conſpire to burne, take or raze, &c. any Caſtle or bulwarke of the Queenes, ſhall enioy neither Sanctuarie nor Cleargie, 14. Eli. cap. 1.

Rape: Burghlarie. He ſhall haue no Cleargie that committeth any felonious Rape, Rauiſhment, or Burghlarie. 18. Eli. cap. 6.

Rauiſh infant. Nor hee which carnally and vnlawfully abuſeth any Woman being within the age of tenne yeeres. 18. Eli. cap. 6.

Buggerie. Nor he which committeth the deteſtable ſinne of Buggerie. 25. H. 8. ca. 6: & 5. Eliz. cap. 17.

Murder. There lieth no Cleargie nor Sanctuarie for him, which committeth wilfull murder or poyſoning,

ſoning, of malice prepenſed: or which robbeth another, in, or nigh the high way: or which ſtealeth any horſe, or horſes, gelding, or geldings, mare, or mares: or ſtealeth goods out of anie Church or Chappell: or which breaketh anie houſe feloniouſly by day or night, any perſon being in it: or which robbeth any perſō in any part of his dwelling houſe, himſelf, his wife, children or ſeruants, then being there, or within the precinct thereof, and being ſleeping or waking. 23. H. 8. c. 1: 32. H. 8. c. 3: 1. E. 6. c. 12: 5. E. 6. c. 9: & 2. & 3. E. 6. ca. 33.

Poyſoning. Robbe in high way. Horſe. Church. Houſe.

He which robbeth any perſon in any Booth, or Tent, in any Faire or Market, the owner, his wife, children, or any ſeruant then being therin, either ſleeping or awake, is depriued of his clergie. 1. E. 6. ca. 12: & 5. E. 6. ca. 9.

Robbe Booth or Tent.

Such as malicioully commaunde, or hire any to commit petite treaſon, or wilfull murder, or robberie, in any dwelling houſe, or in, or neere anie high way, or within the Marches of England againſt Scotland: or willingly to burne any dwelling houſe, or any part thereof, or any barne hauing corne therein, ſhall not bee admitted to their Cleargie. 4. & 5. Phili. & Mar. cap. 4.

Commaund murder or robberie. Burne houſe or barne.

If any ſhall report falſe rumors againſt the Queenes Maieſtie, or ſhal deuiſe and write, or ſet foorth any writing contayning ſlaunderous matter to her diffamation, or to the ſtirring of

Seditious words.

of any insurrection: or shall procure any such writing to be set forth or published, shal not be admitted to his Cleargy. 23. Eli. cap. 2.

Wish the Queenes. death.

Such as by Coniuration, Calculation, or other vnlawfull meanes, shall seeke to knowe, and shal set forth by expresse worde or act, howe long the Queene shall liue, or who shal raigne after her death: or shal, will, or wish her death, shall loose all benefite of Cleargie and Sanctuarie: and so shall their aiders, procurers, and abetters. 23. Eli. cap. 2.

Souldior that departeth.

Cleargie and Sanctuarie bee taken from the Souldiour that departeth without licence of the Lieutenant, or captaine. 2. E. 6. ca. 2. & 4. & 5. Phil. & Mar. cap. 3.

Cary the goods into an other countie.

He that doth a Robberie or Burghlary in one Countie, and is taken with the goods so robbed or stollen in another Countie, shall loose his Cleargie there, as hee should doe where the robbery, or Burghlary was committed, 25. H. 8. ca. 3. & 5. E. 6. ca. 10.

Forgerie.

Sanctuarie and Cleargie be taken from him that secondly shalbee conuicted of the forging of false deeds, &c. 5. Eli. cap. 14.

Cutpurse.

He which priuily taketh money or goods (ouer the value of xii. pence) from the person of an other, not knowing it, is denied Cleargie. 18. Eliz. cap. 4.

Rogue.

The Rogue that is attainted and committed to seruice, and departeth: or that after xl. dayes

(next

(next after he shall be ruisle put to seruice) doth the thirde time fall to a Roguish life, shall haue neither Sanctuarie nor Cleargie, 14. El. ca. 5.

Cleargie and Sanctuarie be taken from him which calleth himselfe Egyptian, or which keepeth them company against the statutes, 1. & 2. Phil. & Mar. ca. 4. & 5. El. cap. 20. Egyptians.

In all other cases (so farre as I yet finde) the prisoner may enioy the priuiledge of Cleargie: yea, and in euery of these Statutes also that doe resume cleargie, if so be that the Enditement do not expressly mention the offence in the very words of the Statute it selfe, the offendour may escape by his Cleargie. For, if the Enditement be *Murdrauit* onely, without saying *Ex malitia precogitata:* or if it be, that he procured a Robberie in a dwelling house, without adding maliciously: or that he robbed one in the highway, and tooke tenne shillings from his person, without shewing that he made Assault vpon him, or vsed violence vnto him: or if it be of Burghlarie, and doe lacke the word Burghlariter. Then (as M. Stanford warily noteth) the offence is not against the Statute, and consequently the benefite of Cleargie is not pulled from the offendour. Stanford. 130. Collection Dyar. 183. & 224. A consideration touching Cleargie.

The same M. Stanford (about the same place of his booke) mooueth a doubt in this matter of Cleargie, very meete to be remembred A Scruple concerning Cleargie.

here, and to be resolued in another place. When sundry of these Statutes which take away cleargie (in case where the offendour is conuicted by the verdite of twelue men) doe speake nothing at all of his attainder by Vtlawrie, or by Parliament: nor of his standing wilfully Mute: nor of his chalenging aboue twentie peremptorily, nor of his refusall to answere directly to the offence: It is to bee considered (saieth hee) whether in these cases also, the Cleargie shall be denied vnto him. But since it becommeth not me to determine, where hee doubted, I will heere make an ende of our Triall, and proceede to Iudgement.

Of Iudgement.

Cap. xv.

The Iustices of Peace hauing thus sifted and tried the causes in hearing, either by the Euidence giuen to the Iurie, or by the examinatiõ of witnesses, or by Certificate allowed, or other lawfull, reasonable, and discreet proofe, are nowe come to make an end, and to determine of it. For I may well apply that to hearing and determining, which M. Bract. requireth to the making vp of a true Iudgement that is to say, an equal & indifferent acceptatiõ of the persons: an earnest exami-

examination and thorow search of the cause: a true deliuerie of the sentence: and a diligent execution of the same. Of these, the two first belong to hearing (or Triall) which we haue already handled: and the latter two bee the verie parts of determining, wherewith we haue nowe to deale. For Iudgement and Execution, doe make an end of the cause in controuersie.

You haue read before, a generall learning in the Commission: I meane, that if anie difficulty doe arise in determination vpon Triall, the Iustices of Peace are restrained to proceed to iudgement: and you may read (6. H. 7. 16.) that if a *Certiorari* be brought to the Iustices of Peace, they are staied (by the opinion of Keble) from determination, although the Recorde bee not thereby remoued from them.

But admitting that there is none impediment, let vs heare their iudgement.

The Iudgements then of the Iustices of Peace, be in some cases arbitrarie (or referred to discretion) and in other some cases prescribed or limited. Of the first sort, take this one (or two) for all. Iudgements by discretion.

He that is orderly conuicted before them in their generall Sessions, of the deceitefull getting of any goods into his hands, by meanes of any false token or counterfeit letter (made in the name of any other) may be adiudged by them to suffer imprisonment, standing on the pillorie, False token.

or any other corporall paine, that they shall appoint, except the paines of death, 33. H. 8. ca. 1.

Seruant. And that Seruant, Workeman or Labourer, that shall so wilfully and maliciously make assault or affray vpon his master or maistresse, or other that then shall haue charge ouer him, as that hee shall deserue further punishment then the imprisonment of one whole yeare, may bee put to such further open punishment (so as it extend not to life nor limme) as the Iustices of Peace in open Sessions shall thinke conuenient, 5. Eliz. cap. 4.

Prescribed Iudgements. Their prescribed Iudgements bee of sundry formes, according to the natures of the offences (whereof they haue to iudge) which bee diuers also.

For, vpon petit Treason committed by a man, the sentence ought to be that he shall bee drawen and hanged: But against a woman, the iudgement is all one whether it be in high, or petit treason, that is to say, that she shall bee drawen and burned. Stanf. 182.

Against Murder, and other Felonies, they must pronounce the only vsuall iudgement, of hanging til death, in both the sexes. Vpon such as be conuicted of Trespasses, contempts, riots, & such other offences, whereupon no certaine forfaiture is laid by Statutes, they must adiudge, that they bee taken and ransomed, and so to satisfie the Queene for their offences, by making

king their fines: and vppon offendors against such penall lawes as doe inflict any certaine paine, they ought to adiudge as the Statutes themselues do direct their course.

For, vpon conuiction of the first offence, against the statute of forestalling, (5. E. 6. ca. 14) they must awarde imprisonment for two moneths without Baile or Mainprise and the forfaiture of the value of the goods so had: vpon the second attainder (or conuiction) such imprisonment for vi. moneths, and the double value of the goods: and vpon conuiction of the third offence, they must giue sentence that the offendor be set on the pillorie, and to forfait all his goods, and further to haue imprisonment of his bodie during the Queenes pleasure. Forestalling.

Against him that shal bring, or procure to be brought into any ship, any kind of sheepe, being aline, to be conueied out of any the Queenes dominions, they ought, (for the first offence) to adiudge, that he shall loose all his goodes to the Queene, and suffer imprisonment by the space of one whole yeare, without Baile or Mainprise: and that at the yeeres ende, hee shall (in the full market of some market towne) haue his left hand striken off, and nailed vpon the openest place of such a market, 8. El. c. 3. Conuey sheepe.

Against him, that is conuicted for the vnlawful taking or slaying of any Deere, or for such taking of any hawke, or egges of hawke (contrary Taking of Deere, or Hawkes, &c.

trary to the ſtatute, 5. E. c. 21) they muſt adiudge treble damages to the party grieued, 3. moneths impriſonment of the body of the offendor, and (after that expired) to finde ſuerties of his good behauiour for ſeuen yeeres after, or elſe to remaine in priſon vntill he ſhall finde ſuch ſuerties during thoſe ſeuen yeeres.

Alehouſe. And vpon Certificate made at the next quarter Seſſions of the Peace, by two Iuſtices of the Peace (the one of them being of the *Quorum*) againſt him that ſhall obſtinately keepe an Alehouſe, contrary to the Statute, (5. Edw. 6. ca. 25.) the Iuſtices of the Peace ought (in the open Seſſions) to aſſeſſe the fine of xx. ſhillings: the which I do purpoſely rehearſe, becauſe they are there warranted to Aſſeſſe the fine, without proceſſe firſt made againſt the offendor, vnlike to the common order of aſſeſſing fines, as you ſhall ſee when I come to that matter.

It were more labourſome, then profitable, to runne ouer the diuers Iudgements that Statutes doe appoynt, and it may ſuffice in this place to haue giuen this taſte of theſe few, and therefore I will in hand with Execution.

Of

Of the *Proceſſe* for the Fine of the *Queene*, and of the aſſeſsing therof: and of *Eſtreating* for the *Queene*.

Cap. xvi.

Seeing that Execution is but a performance of the Iudgement, I ſhall not neede to make long enumeration of the ſortes of executions, which are within the power of the Iuſtices of Peace. For, beſides that by the knowledge of the one, the other is known alſo, the Iuſtices of the peace themſelues haue in many caſes performed their duetie in both, when they haue in the one pronounced that which is due to the offendor.

Execution for the Queene.

Howbeit, forasmuch as that which they are to doe by way of Execution, offereth profite, either to the Queene, or to her ſubiects: and that which pertaineth to the Queene, is brought about, either mediatly, firſt by Proceſſe (or impriſonment) for the Fine: then by Aſſeſsing of the Fine: and laſtly, by Eſtreating the ſame: or elſe immediately, by Eſtreating of the penaltie and forfaiture: I will firſt beſtow a few words vpon the Fine & Eſtreats for the Queen, and then ſpeake of the benefite that belongeth to the ſubiect.

Where the Conuiction is for Treſpaſſes againſt the Peace, Riots, and ſuch other Con-

tempts and offences against the Commission or Statutes, for the which no certaine Fine is appointed: there (as you haue seene already) the iudgement is, That the partie shall bee taken to satisfie to the Queene her Fine. And thereupon, the *Capias pro fine*, and (if the partie cannot bee founde) other Iudiciall Processe goeth out, till he be Utlawed: vnlesse it bee in a verie few cases, where (by the wordes of the Statutes themselues) they may proceed to assesse the Fine in the absence of the parties, without calling them by any Processe: for, so it standeth in the statute of Alehouses, 5. E. 6. cap. 25. (as I told you euen nowe) and in the Statute of High waies, 5. El. cap. 13.

But if the partie be brought in, then is hee a prisoner, and then are the Iustices of Peace (by their discretion) to assesse the Fine, and to estreat it, and deliuer him.

For in no case (as I take it) can they of themselues leuie any Fine or forfeiture, due to the Queene: insomuch as not they, but the Sherife is accountant for all such matters.

Imprisonment. The imprisonment that I speake of, is onely to the end that the Queene may haue the Fine: and therefore, vpon the paiment thereof (or vpon pledges founde by Recognisance to pay it) the offendour ought to bee deliuered, 2. Mar. Brooke. Imprison. 100.

Heereof also the Fine tooke first his name,

of

of the Latine *Finis*, because it maketh an ende with the Queene, for the imprisonment laied vpon the offence committed against her Lawe.

And in that respect chiefly, doth it differ from an Amercement: For when the offendor hath not so deepely trespassed, that thereby he deserueth any bodily punishment at all (as if he be *non suit* in an action, or doe commit any such like fault) he is said to fall into the Kings Mercie, because he is therein mercifully to be delt with: and by the Great charter (ca. 14) that Amercement and summe of money which he is to pay for the same, ought to be assealed and affeered by the good and lawfull men of the neighbourhood, which also Glanuil. lib. 9. ca. 11. affirmeth to haue bene the Lawe of the land long before that time, saying, *Misericordia Domini Regis est, qua quis per iuramentum legalium hominum de Viceneto, eatenus amerciandus est, ne aliquid de suo honorabili contenemento amittat.* Difference betweene Fine and Amerciament.

But where the offence or Contempt falleth out to be so great, that it asketh the imprisonment of the body it selfe, and that during the Kings will and pleasure: then is the partie to redeeme his libertie with some portion of money, as he can best agree with the King, or his Iustices for the same: which composition, is properly called his Fine, or his Raunsome, and in Latine *Redemptio*, as may be plainly seene by the Statute of *Marleb.* 52. Hen. 3. cap. 1. 2. 3. & 4:

& 4: and by the statute called Ragman, and diuers other auncient statutes. Where (by the way) it seemeth by the propertie of the word *Redemptio*, that the partie offendor ought first to be imprisoned, and then to be deliuered (or ransomed) in consideration of his Fine. And where any statute speaketh of Fine & Ransome both, (as 38. E. 3. c. 9. and others doe) it is taken, that the Ransome ought there to be at the least treble so much as the Fine. Collect. Dyar. 232.

But now of later time, the Iustices themselues haue in some cases of Amerciaments also, vsed to assesse and rate the same without any other helpe: As where the Officers of their Courts haue offended, 33. Hen. 6. 54: 34. Hen. 6, 20: & Lo. 5. Edw. 4. 5. which also seemeth to make another difference betweene the two words. But because neither of these be strictly obserued, either in common speach, or in the vnderstanding of the latter Statutes, I will no longer stand vpon it.

Fine, by discretion of the *Iustices.*

Now then, if the offence be Fineable, by generall wordes onely, without speaking of any Fine, or without shewing by whome the Fine shall be assessed (for so it is commonly in the elder Statutes that doe prohibite any thing to be done) there the assessement thereof belongeth to the Iustices before whom the Conuiction is lawfully had.

Againe, if it be Fineable by these (or such like)

like) words, At the Kings will, or At the Kings pleasure (as you shal finde it in many Statutes) then also the same Iustices (before whom the Conuiction was) shall assesse the Fine at their wils and pleasures: For (say the Bookes, 2.R. 3.11: & 18.Hen.8.1.) the King (in all such cases) vttereth his owne will and pleasure, by the mouthes of his Iustices.

And yet some statutes (vsing plainer speech) doe namely referre the Fine to the discretion of the Iustices of Peace.

For they may (vpon Conuiction had before them) set Fine by their discretions vpon such as take Salmons, or destroy the Frie of Fish in Riuers, against the statutes, W. 2. cap. 47: 13. R.2.c.19: & 17.R.2.c.9. And as this is said of the Fine, so sundry Statutes doe giue the same power to the Iustices of Peace, in the execution of the corporall punishment it selfe: as you haue already heard in the case of counterfeiters of false letters or tokens, and may reade in other the statutes at large. For I labour to be short, and therefore I giue but an assaie of each thing, knowing that these Iustices will not proceed to the execution of any statute, without the sight of the statute it selfe, howsoeuer they should finde it alleaged by me.

Destroy the Fry of Fish.

And in these cases (euen as in cases of Amercements) the Iustices ought to take heede, that the Fines be reasonable and iust, hauing regard

regard to the quantitie of the trespasse, and to the causes for which they be made, as it is commanded by the Statute. 34. Ed. 3. ca. 1.

Fine, to be assessed openly.

But this Fine (or paine) awarded by the discretion of the Iustices of Peace, shall doe the more good, both to the Prince in profite, to the people in example, & to the Iustices themselues in credite, if it be pronounced at the Bench openly (as it ought to be) and not shuffled vp in a chamber (or corner) secretly, as in some places it hath bene vsed to be.

Mitigation of the forfaiture of a Statute.

I haue heard, that euen in cases where the Statutes doe appoint a certaine forfaiture (as fiue pounds, or ten pounds, &c.) yet the practise is, to mitigate the same by discretion, if so be that the partie will come in vpon the Enditement, and put himselfe *in gratiam Regine*, with confession of the fault, or without it as I haue told you before. So that the Fine shall be small, where the fault was great, and the penaltie of the Law it selfe not small.

But this maner of doing is (in my minde) so voyd of sound reason, that I cannot recommend it to the Iustices of Peace, but doe rather condemne it as a mockerie of the law. Yea I finde that sundry Statutes (fearing belike some such thing) haue specially preuented it, commaunding that Iustices of the Peace shall assesse no lesse Fine, then is in those Statutes themselues before hand appointed.

Such

Such is the Statute (17. Ed. 4. cap. 4.) of Tiles: the Statute (33. Hen. 8. ca. 6.) of crosse-bowes and handgunnes: and the Statute (5. Ed. 6. cap. 25.) concerning Alehouses: and such others may be found, if the bookes of statutes be well perused.

And although it may seeme good husbandrie, to take such a Fine by a maner of confession before conuiction, rather then to hazard the losse of all the profite that may come to the Queene thereby (as in deede that must ensue, if no conuiction be had) yet who seeth not, that the other way is much more seruiceable, and that this is but to looke thorow the fingers (as we say) and to strike or slap at a fault with a fore taile, and none other?

But hitherto we haue not sufficiently performed that, which the Commission of the Peace hath in these words, *Saluis nobis amerciamentis, & aliis ad nos inde spectantibus*: and therefore, it is not inough to haue assessed the Fine, but we must also disclose the meanes by which, as well this Fine (that is reduced to certaintie by the discretion of the Iustices) as all other Amerciaments, and those other penalties and forfeitures also that are certainly prefined by wordes of the Statutes, may be leuied and brought into the Queenes coffers. Estreating for the Queene.

Order was taken by an auncient Statute (intituled *de Scaccario*, and noted to be made

51.H.3.) that all Iustices, Commissioners, and Enquirers whatsoeuer, should deliuer into the Eschequer (at the feast of S. Michael yeerely) the extracts of Fines and Amerciaments, taxed and made before them, that the King might be duly answered thereof. And the same (in effect) was afterward confirmed by an other Statute, entituled, *De forma mittendi extreta ad Scaccarium*, which although it be said to be made 15.E. 2: Yet, forasmuch as it mentioneth that the former statute was made in the time of the father of the same King which made the later, it must needs be, that either the one or the other of them was made in the time of King Ed. 1.

No doubt, but this ordinance doeth extend to the Iustices of Peace, as a man may easily gather by words in the Statute of Labourers, 5. El. ca. 4: and by the act of Sewers. 13. El. ca. 9. and other statutes: But because it is very generall, and hath nothing peculiar vnto them from other Iustices, I will descend to lower times, and looke there for neerer helpes.

The statute (12. R. 2. c. 10.) had allowed to euery Iustice of the Peace foure shillings by the day, for the time of their Quarter Sessions, to be paid (by the handes of the Shirife) of the Fines and Amerciaments comming of the same Sessions. But, because it was soone after seene, that it was a great delay to the Iustices of Peace in this paiment, to expect the leuying of these

these Fines and Amerciaments by Estreats, first sent vp to the Eschequer, and then deliuered thence to the Shirife (which was at that time the common maner of leuying Fines and Amerciaments) therefore it was within two yeeres after (*viz.* 14. R. 2. c. 11.) prouided, that the Estreats of the Iustices of Peace should be indented (or doubled) and the one part therof deliuered by them to the Shirife to the intent that he may leuie the money thereof rising, and pay the Iustices their wages by Indenture between him and them to be made, and the Barons of the Eschequer may charge and allow him vpon the making of his account accordingly.

And hereby (as I thinke) the Estreats of the Iustices of the Peace be now an immediat warrant for the Shirife, to leuie, not onely the Fines and Amerciaments, but also all other Issues, Penalties, Losses, Forfaitures, and Summes whatsoeuer, arising before them: for the words of the Statute are generall, The money thereof arising: and therefore, whatsoeuer summes are to be Estreated into the Eschequer, the same are also to be leuied by the Shirife.

Such order did the statute take (33. H. 8. ca. 10. of the fiue weekes Sessions) for the leuying as well of Fines and Amerciaments, as of Paines, Losses, & Forfaitures of money: So doeth the Statute of Tillage (2. & 3. Phil. & Mar. ca. 2.) by way of admittance rehearse, that Iustices

Iustices of the Peace may make out Processe for the leuying of Fines and forfaitures before themselues: So doth the Statute of cotages, 31. Eliz. ca. 7. appoint: and so are the Estreats made, (for the most part) and the Fines and forfaitures thereby leuied at this present time, if I be not deceiued.

And these are properly called Estreats, of the word *Extracta*, because they be short notes (or Memorials) extracted (or drawen) out of the Records, by the Clarke of the Peace, and by him indented and deliuered seuerly to the Shirife, and to the Barons of the Eschequer, bearing this (or the like) Title, *Extract. finium, & amerciamentorum foris factorum, ad generalem Sessionem Pacis, tentam apud Maidstone, &c. Coram, &c.* For the whole forme of the making whereof, there is full direction giuen to all Clarkes of Estreats, by the statute, 7. H. 4. cap. 3. Whereunto I referre them.

Iustices of the Peace ought to haue care of Estreats.

Howbeit, I doe not thinke that in our case, this dutie of Estreating is so peculiar to the Clarke of the Peace, but that the Iustices of the Peace themselues, ought also to haue a common and carefull eye vnto it: For (if you remember) it is both specially prouided for in the Commission, and also an Article of their Oath, to see vnto the faithfull Entrie and Certificate of the Issues, Fines, Forfeits, and Amerciaments, that doe happen before them. And therefore, it were well

wel done (in mine opinion) if the Iuſtices would, by turne (or otherwiſe) both take knowledge of things that haue paſſed before them, and alſo take order that the ſame be certified accordingly: leaſt otherwiſe it lie altogether in the power of the Clearke of the Peace to Saue or Slay (as one ſaid) the Sparow, that he holdeth cloſed in his hand.

Of Executorie *Proceſſe*, and execution for the parties that ſue, or for other perſons: and of reſtitution of goods ſtollen.

Cap. xvii.

Albeit that the Iuſtices of Peace haue this power, to make warrant for leuying the Amerciaments, Fines and other Forfeits that doe grow vnto the Queene by their ſeruice: yet is it commonly thought, that they may not, (but in ſome caſes only, and that by ſpeciall ſpeech of the Statutes) make execution (either for him that will ſue, or for any other) of ſuch part of the forfeiture, as the law doth affoord them.

For (moſt commonly) the partie that will ſue, is put to his Action at the Common law, for recouerie of that which he is to haue: as, for his moitie of a forfaiture againſt the Statute Apparell.

(24.Hen.8.cap.13.) of apparell, he is perhaps driuen to this Action of Detinue: for his moitie growing vpon conuiction of any offence, contrary to the statute (13.El.cap.14.) concerning bringing ouer of Bowstaues, or contrary to the statute of Musters, (4.& 5.Ph.& Mar.ca.3.) he is to commence his Action (or Bill) of Debt: and so of sundry others, that are each where to be found. But where they haue power, either by their Commission, or by any statute, to heare and determine any cause at the sute of a priuate person, I doe not see how the cause can well be said to be fully determined, till the complainant hath had the effect of his sute, which cannot be without execution.

Bowstaues.

Musters.

Doubtlesse, by special prouision, made in the statute (5.Ed.6.cap.14.) against Forestallers, the Iustices of the Peace may make execution of the one moitie of the forfaiture for him that sueth, by *Fieri facias*, or *capias*, as the Queenes Iustices at *Westminster* vse to doe.

Forestallers.

The like power, in like wordes haue they, for leuying the moitie of any forfaiture against the Statute of Armour, made 4.& 5.Phil.& Mar.cap.2. or against the Statute (made 5.El. cap.12) concerning Badgers, Drouers, &c, and their licences.

Armour.

For the moitie growing to the Informer vpon the Statute of Liueries, (8.Edw.4. cap.2.) they shall make such execution, as ought to be had

Liueries.

had in Recoueries of Debt or Treſpaſſe, at his owne pleaſure.

They may alſo award execution for the partie that ſueth vpon the Statute of Flaxe and Hempe (24.H.8.cap.4.)by ſuch Proceſſe as to them ſhall ſeeme by their diſcretion. Flaxe and Hempe.

And the Eſtreats (made by the Clarke of the Peace) of forfaits for defaults of amending high wayes, are a ſufficient Warrant to the Conſtables to leuie the ſame by Diſtreſſe to the vſe of the Churchwardens of the Pariſh where the default was, towards the amendment of the ſaid wayes, 2. & 3. Phil. & Mar. cap. 8 : & 5. Eliz. cap. 13. High wayes.

And likewiſe the Eſtreats of the Iuſtices of Peace (of any Fines aſſeſſed by them vpon Preſentments in the Shiriſes Turne) being inrolled, indented, and deliuered to the Shirife, are a good warrant vnto him to leuy the ſame to the vſe of him that was Shirife at the time of ſuch Preſentments taken, 1. Ed. ca. 2. Shirifs Turne.

So, may Iuſtices of the Peace award proceſſe of Execution, for leuying the forfaitures, vpon offences againſt the ſtatute (27. El. c. 7.) of Iſſues loſt by Iurors. Iſſues.

So, vpon the ſtatute of Periurie, 5. Eliz. cap. 9: vpon the ſtatute (5. Ed. 6. ca. 4.) for drawing of weapon to ſtrike in Church, or Churchyard. And peraduenture ſearch will affoord you ſome moe examples: but theſe may ſuffiſe for my deſire, Periurie. Striking.

which is not (in this, or any the like) to recount all, but to make good proofe of that which I offer and propound, that the Iustices and Clarke of the Peace, may thereby take occasion to looke vpon the Booke, whensoeuer execution is praied for any cause, depending before them vpon whatsoeuer Statute.

Restitution of goods stollen.

And because the awarding of restitution of goods stollen to the owner, or partie robbed, (after the attainder of a Felon by reason of the euidence giuen by them) is a maner of execution for the partie: I may without violence bring hither the effect of the Statute made vpon that point, and lying within the authoritie of Iustices of the Peace: which standeth thus. If any Felon of goods, money, or cattels (taken from any of the *Kings* subiects) be endited, arraigned, and found guiltie thereof, or otherwise attainted, by reason of *Euidence*, giuen by the partie robbed, or the owner of the said goods, money, or cattels, or by any other by their procurement: Then shall such partie or owner be restored thereunto: and the Iustices (before whom such finding guiltie, or such attainder shall be) shall haue power to award Writs of Restitution therefore: 21. Hen. 8. cap. 11.

Of

Of Certifying the *Records* of the *Sessions* of the Peace, to other Courtes or Officers.

Cap. xviii.

AS we haue already manifested, that Iustices of the Peace haue not a sufficient and thorow power (of themselues) to heare and determine all causes whereof they haue in their Sessions authoritie to enquire: So also be there sundrie things determinable before them there, which neuertheles may (in some respects) be brought to a second handling: either to the ende to reuerse that which they haue done, or that their doings may be an euidence and testimonie in the triall of causes before other Iudges.

And because this cannot in any sort be performed, without the presence of those former Records (or the transcripts thereof) which began with the Iustices of the Peace: it is therefore requisite, that they doe make Certificate of them vnto those other Courts, or officers, that shall be interessed to vse the same.

But, as this Certificat ought in some cases to be made by the Iustices of the Peace, (or their Clarke) without any Writ of *Certiorari* therefore directed: and in some other cases they may spare to Certifie, vntill that Writ (or some other commaundement) be brought vnto them:

So alſo ſometimes they are to certifie and ſend vp only a Tenor (or Tranſcript) as I ſaid, of the Record before them: and ſometimes the very Record it ſelfe muſt be conueied from them.

Certifie without the Writ of *Certiorari.*

The Clarke of the Peace muſt (vnder the paine of fortie ſhillings) certifie into the Kings Bench, a true Tranſcript of euery Attainder, Vtlawrie, and Conuiction (had before Iuſtices of the Peace in any place, except *Wales*, *Cheſter*, *Lancaſter*, and *Durham*) within 40. dayes after, if it be then Terme: and if not, then within twentie dayes after the beginning of the next Terme: that the ſame may there alſo appeare of Record, to be vſed as that Statute hath appointed if there be cauſe.

And he muſt alſo deliuer to the Ordinarie, a Tranſcript of Clarks conuicted or attainted, before the ſaid Iuſtices, 34. H. 8. cap. 14. But enquire whether this laſt be needfull at this day, by reaſon that Clarkes be not now deliuered to the Ordinarie, by the Statute. 18. El. ca. 7.

And if a principall be attainted of murder, or Felonie in one Countie, whereunto an other is acceſſarie in an other Countie: then vpon writing from the Iuſtices of Gaole deliuerie, or Oyer and Terminer (to the *Cuſtos Rotulorum*, (where ſuch principall is attainted) he muſt certifie in writing vnder his Seale to the ſaid Iuſtices, whether ſuch principall be attainted, or otherwiſe diſcharged, or not: that they may

proceed

proceed thereupon to the triall of the Accessarie, 2.Ed.6.ca.24.

But, in cases where Iustices of the Peace haue power to receiue Enditements, and no power to proceed any further vpon them (whereof you haue already the examples, in the 7. chapter of this present booke) there they ought to send vp & certifie the Enditements themselues, and that of dutie (as I thinke) without any *Certiorari* commaunding the same: because, hauing none authoritie to heare and try the offences, the Records thereof shall be vnprofitable before them: and therefore they can haue no iust cause to retaine them, and yet (for the more suertie) it is specially commaunded (by 5.Eliz.ca.1.) that they shall certifie the presentments of some offences against that Statute.

And so, if a man (bound to keepe the Peace) do make default of apparance at the next Quarter Sessions: the Recognusance it selfe (together with the Record of that default) must be certified into the Chauncerie, Kings Bench, or Exchequer, that execution vpon the Recognusance may be had there, 3.Hen.7.cap.1: and so ought it (as I thinke) if it be presented, that the partie hath forfaited his Recognusance by breach of the Peace: And likewise, if it be presented before them, that the chattels of a man attainted of Felonie, be in the hands of an other. For, in these and such other cases, where they

cannot of themselues proceed, they ought to send the Records to such as haue authoritie to determine vpon them: and otherwise, they doe not discharge that dutie, which the wordes *Salvis, &c. & aliis ad nos inde spectantibus*, in the Commission doe seeme to expect at their hands.

Furthermore, the Statute of Purueiours (2. & 3. Phil. & Mar. ca. 6.) doth appoint the Iustices of the Peace, to certifie to the Treasurer of the Queenes household, the Dockets of Purueiors (brought to their Sessions by Constables) that the seruing of such Commissions, and the true answering of purueiances may be the better examined thereby: and although it may be doubted, whether these be Records, or no, yet for that they are to be certified from the Sessions of the Peace, I sticke not to affoord them this place. And if you will also repute in this number, the Licences (and such other acts of that kinde) which passe at the Sessions of the Peace, I will not be against it.

Certiorari. Touching the *Certiorari*, it is of force (if it be made accordingly) to remoue, not only Enditements, or other executorie Records, wherein the Iustices of Peace can go no further, (and whereof I haue spoken already) but also the Records of causes, fully and lawfully heard and determined by them: to the end that they may be reuersed and adnulled in the Kings Bench, if good matter and cause doe require.

For,

For, that preheminence hath the Kings Bench, as you may see by proofe: yea, all other the higher Courts, may write to the Iustices of Peace, to certifie their Records that do make for the Triall of causes hanging in them, as you may reade 19. Hen. 6. 19. where they of the Common Place did sende to the Iustices of Peace for an Enditement, because in a Writ of Conspiracie, (brought before them) it was materiall to haue it.

And yet, neither they of the Common Place, nor Kings Bench, doe vse to write for Enditements, or such other Records, vnlesse they bee thereunto enduced by cause hanging in their owne Courts before them: For, otherwise the right way to remoue them, is by *Certiorari* out of the Chancerie, from whence they may bee transferred (by *Mittimus*) to any other Court, 41. lib. Ass. Pla. 22. Knyuet Chiefe Iustice.

Howbeit, a man may gather vpon the booke (1. R. 3. 4.) that if any Record be sent vp without warrant to such a higher Court, they may there proceede vpon it: because it is thereby made a Record in that Court: and that Court is the Court of the Queene, as well as the other.

Of

Of the generall, (or Quarter) *Sessions* of the Peace.

Cap. xix.

WE haue hitherto laboured, and at the length runne ouer, sundry things, which (in the opinion of some men) bee common to all Sessions of the Peace: And yet, because there bee also certain matters (as it seemeth to mee) appropriated, some to any, and others to some one, of the generall Sessions: it remaineth that we nowe distinguish the Sessions of the Peace, and enter into consideration what is a generall, and what a speciall Session.

The generall Sessions.

The generall Sessions of the Peace be those, which are prouided for the generall execution of the authoritie of the Iustices of Peace, whether you respect the limits of the place, within their Commission, or the bounds of power proceeding from the Commission and Statutes. For at these Sessions (as saith M. Fitzh.) generally all things ought to be giuen in Charge that do lie within the authoritie of these Iustices to bee determined.

These be moreouer called the Quarter Sessions, because they be holden Quarterly or foure times in the yeere: and the Statute (4. H. 7. cap. 12.) termed them principall Sessions, for

for that in them chiefly the power of Iustices of the Peace doeth shine and shew it selfe: in which respect 27. El. ca. 19. and some other statutes do giue them the name of open Sessions also.

But we shall not neede to dwell vpon the names, whereof there can bee no great controuersie, seing that they al doe aime at one mark: rather because these generall Sessions bee at this day diuersly summoned, begunne, and continued, in diuers partes of the Realme it lyeth fitly in my way, to make examination of that diuersitie in this doing.

How many *Sessions.*

For (to begin with the Summons) the manner is (in some Shires) to summon yeerely sixe standing Sessions of the Peace: in others 8: in others 12. or 16: and in others otherwise. Al which is done, chiefly vpon pretence to ease the inhabitants of the Countie, for whom it would otherwise be very painful to trauel so often and farre, from all the parts of the Shire to any one place of the same.

And therefore, such as doe maintaine 6. or 8. Sessions, do vse to summon all the whole Shire to a couple of them, and to the residue they call onely such parts of the Shire, as they doe there specially appoynt: But yet so, that (vpon the reckoning) each corner of the Countrey giueth attendance at foure seuerall Sessions: which also falleth out accordingly in those Shires where they haue 12. or 16. Sessions.

For

For albeit that they doe not at any one time summon the whole Shire to any one place (as the others doe) yet, diuiding their Shire into 3. or 4. parts, and keeping foure seuerall Sessions in each of those parts, they also (as well as the other) do serue their whole countrey with foure sundrie Sittings. And therefore (in mine opinion) although none of these doe followe the precise letter of the law (which requireth but onely foure quarter Sessions in any Shire) yet euery of them draweth neere to the true meaning of the law, which looketh for nothing else but that the Court of these Sessions should yeerely be foure times opened for the whole Countie.

But if there be any that do (for this purpose) diuide their Shire into halfes, and doe holde onely foure Sessions in the yeare, that is to say, two in the one part, and two in the other, calling the one halfe of their Hundreds to those two Sessions at the one place, and the other halfe to the other two Sessions holden at the other place: These men (as some haue thought) doe neyther retaine the letter, nor attaine the meaning of the law, in this doing. For, vpon the matter, no part of their Shire hath any moe then two Sessions: which manner, who seeth not howe much it may hinder Iustice?

I remember I haue read, that amongst other the desires of those that accompanied Iacke Cade to Blackheath in *Kent*, this was one: that (for

(for saving of labour) the Quarter Sessions might be holden in two severall places of that Shire: And it is very likely, that thereupon the same were first kept interchangeably at two sundry townes. But, howsoever for the time it was thought good in a sort, to yeelde to that importunitie of the common people: yet can there no good reason bee rendred, that the Sessions should bee now continued in the maner as they are.

For, if any will seeke to salue it, in saying, that they doe call the Constables of the whole Shire to every of those Sessions: yet they cannot so escape: because both reason it selfe, and their owne experience herein, doth informe them, that it is likely, they shall haue moe presentments, where moe persons (that can present of their owne knowledge) be assembled, and doe take the charge vpon them.

Besides all which, these men doe not bring ease, but trauel and delay to their countriemen: whom (by this meane) they doe compell, either to goe farre (out of one part into another) to haue a fault punished, or else to tarie for helpe til a Session shall bee kept in that quarter where they inhabite.

Neither may I well omit, that this doing may breede danger to the Iustices themselues, whilest any of them (hauing taken a Recognusance of a Tipler) doeth not certifie it vntill the Sessions

Sessions happen to be in his owne part, and in the meane season, the next Session of the Peace (within the shire) chanceth to be holden in the other part: whereof what may follow, the statute (5.E.6.cap.25.) will tell you, and teach them. And like fault is it (though not like forfaite) so to retaine a Recognusance taken for the Peace, as you may see by the statute, 3.H.7.cap.1.

The times of holding the Quarter *Sessions.*

Thus much of the summons (or number) of these Quarter Sessions: Nowe followeth the time in which they ought to bee holden: about the which also all Counties doe not agree: and therefore, it shall be good (before other things) to peruse those statutes, which doe (either indeed, or shew) concerne this point.

The Statute 25. Edw.3. cap. 8. ordained thus: Item, that the saide Iustices make their Sessions in all the Counties of *England*, at the least, foure times in the yeere, *viz.*

At { The Annuntiation of our Lady:
Saint Margaret:
Saint Michael: and
Saint Nicholas.

The Statute 36. E. 3. cap. 12. sayeth, That the Commission of the Peace shall make mention that the *Sessions* shall bee holden thus:

Within

Within the *Vtas* of the Epiphanie:
Within the ſecond weeke of Lent:
Betweene Pentecoſt and Midſommer:
Within the *Vtas* of Saint Michael.

The Statute 12.R.2.c.10. doeth afterward ſet the matter at libertie, ſaying, They ſhall holde their Seſsions in euery quarter of the yeare at the leaſt: But they of *Middleſex* bee excepted by 14.H.6.ca.4.

Laſtly the Statute 2.H.5.c.4. doeth reduce the times to certaintie againe, ſaying thus:

Ouer all the Realme the *Seſſions* ſhall bee,

In the firſt weeke after
- Saint Michael,
- The Epiphanie,
- The clauſe of Eaſter,
- The tranſlation of S. Thomas the Martyr.

The firſt of theſe foure Statutes, doth (in ſhewe, and in common opinion) concerne the Seſsions of the Iuſtices of Peace, but in truethit belongeth not at all vnto them: for it was made to direct the Iuſtices of Labourers in the times of holding their Seſsions: and they were not Commiſsioners of the Peace, but ſpecial Iuſtices for the cauſes of Labourers alone, not reſiant in the Countrey, but ſent downe for the time of that Seruice, as it may expreſſly appeare, not only by the Preamble and al the parts of the

the said Statute it selfe, but also by the statutes 28. Edw. 3. cap. 5: 31. Edw. 3. cap. 6: & 34. Ed. 3. cap. 11. during all which time also, the Wardeins of the Peace were neither called Iustices by any Statute, nor authorized to deale with Labourers. For in 34. Edw. 3. cap. 1. they are called Wardeins, and the first name of Iustices of the Peace by any statute (that I haue seene) is found 36. Edw. 3. cap. 12. before mentioned, where it is said thus, In the Commissions of Iustices of the Peace, and of Labourers, expresse mention shall bee made, that they shall hold their Sessions, &c. as before. And as for the authoritie ouer Labourers, that was first appointed to Iustices of the Peace by the statute 42. Edw. 3. cap. 6. in the 4. Chapter of which said Statute, there were certaine Commissions disliked (of which I beleeue that of the Iustices of Labourers was one) and order taken, that from thencefoorth some of the Iustices of the one Bench, or other, or Iustices of Assise, or Iustices of the Peace with other of the most worthy of the Countrie, should be named in all Commissions of Enquirie. So that wee haue not herein to doe with the Statute 25. Edw. 3. cap. 8. and may therefore proceede to examine the rest that doe follow.

The next is, the Statute 36. Ed. 3. cap. 12. But neither that maketh any lawe for holding the Sessions of the Peace at this day, as well be-

cause

cause it was set at large by 12.R.2.c.10.as also (if it were not) because the Commissions of our time, vse no such mention as it commandeth.

Then come we to 2.H.c.2.4. which restrayneth the libertie of 12.R.2.c.10. and reduceth the times of these Sessions to certaintie againe: and yet so, that the one of these statutes doth not fret the other: for the latter is an exposition of the former, so that it is all one as if they both had bene but one Lawe, and should haue saide, That the Iustices of Peace shall holde their Sessions in euery quarter of the yere at the least, namely, in the first weeke after S. Michael, in the first weeke after the Epiphanie, &c.

Nowe, to proue that the Quarter Sesion of the Peace, were or ought to be holden after the prescript of this Statute (2.Hen.5.ca.4.) vntil the time of the Statute, 5. El. ca.4. these be my warrants.

First, M. Marrow saieth plainly that in his dayes the Quarter Sessions were so holden.

Secondly, forasmuch as there can be no higher authoritie of exposition, then to construe one statute by an other, I will shew you some Statutes also that haue accounted of these Sessions to be holden accordingly.

At the generall Sessions after the feast of S. Michael, the *Custos Rotulorum*, or (in his absence) the eldest of the *Quorum*, ought to appoint two Iustices of the Peace for the ouer-

ſight and controlment of the Sheriſes, and their Clarkes &c. by the Statute, 11. H. 7. cap. 15.

And at the generall Seſſions holden at Michaelmas, the Iuſtices of Peace ought to appoint Searchers for Braſſe and Pewter, by the ſtatutes, 19. H. 7. cap. 6. & 4. H. 8. cap. 7: where the worde (At) muſt of neceſſitie be vnderſtood for (After) whether you wil take it according to the ſayd ſtatute 2. H. 5. ca. 4. which ſayth plainely (After) or according to 36. E. 3. ca. 12. which ſayth Within the *Vtas* of S. Michael, ſeeing that the *Vtas* (as euery man knoweth) is alwayes after the feaſt, and not before it.

But (to proue two at once) whereas the ſtatute 27. H. 8. cap. 5. had taken order for Iuſtices of the Peace to be made in *Cheſhire* and certaine other ſhires, & had willed that they ſhould be ſworne to the keeping of their Seſſions of the Peace, &c. as other Iuſtices of the Peace in other the Counties of *England* were, it fell out, that the Gentlemen and freeholders of ỹ Countrey of *Cheſhire*, were much troubled by attending yerely, both at the ſaid 4. quarter Seſſions, and alſo at 8. or 9. Countie Courts which they had beſides, and thereupon it was prouided (by another Statute, 32. H. 8. cap. 43) that the adminiſtration of Iuſtice (before time vſed in the ſayd Countie Courts) ſhould from thencefoorth be done and executed at two times in the yeere only, that is to ſay, at ỹ Seſſions next after

the

the feaſt of S. Michael, and at the Seſſions next after Eaſter yeerely for euer.

I might adde, that the Quarter Seſſions in the weeke next after the Clauſe of Eaſter, was tied to the Tueſday of that weeke, by the ſtatute, 33. H. 8. ca. 10. And that it was not without ſome graue conſideration, that the Statute 2. H. 5. ca. 4. did commaund the Seſſions of the Peace to be holden ouer all *England*, in one and and the ſelfe ſame weeke: But I thinke it clerely ynough prooued, that hitherto theſe quarter Seſſions ought to be directed by that ſtatute: and therefore I wil deſcend to the ſtatute 5. El. cap. 4. and weigh the time in which they ought to be holden at this very day.

The wordes of that Satute be theſe: As much of all the Statutes heretofore made and euery braunch of them, as touch or concerne the hyring, keeping, departing, working, wages, or order of Seruants, Workemen, Artificers, Apprentices, or Labourers, or any of them, and the penalties and forfeitures concerning the ſame ſhall be repealed and vtterly voyde and of none effect: And that all the ſayde Statutes, and euery braunch thereof, for any matter contained in them, and not repealed by this Statute, ſhall remaine and be in full force and effect, any thing in this ſtatute to the contrary notwithſtanding.

Upon this Statute some haue thought, that the said Statute 2. H. 5. cap. 4. is repealed concerning the branch of the Sessions: and others doe thinke the contrary: and therefore let vs hold the beame, and put in ballance their reasons on either side.

They of the one side doe alleadge, that this branch of the Sessions lieth in the middest of that statute (2. H. 5.) which was made for Labourers, and that it was meant onely of Sessions to be holden for the order of Labourers, and so is within the words of repeale.

And they say also, that it will fall out vnseasonably, to holde the Sessions (especially that after Michaelmas) according to this Statute, because the same happeneth very neere to that terme of S. Michael, wherat the presence of many of these Iustices is no lesse requisite then at the Sessions of the Peace.

They on the other side, doe gather vpon the said words of 5. El. cap. 4. that some parts of the statutes of Labourers must needes remaine in force, notwithstanding those words of repeale: for otherwise (say they) the makers of 5. Eliz. might (with lesse labour of speach) haue repealed them all at once.

And therefore they say, that two statutes of Labourers, (*viz.* 12. R. 2. ca. 3: and 23. H. 6. cap. 13.) be yet in force, for so much of them as doth concerne Victuallers: and likewise, that so much

much of this ſtatute, 2. H. 5. cap. 4. as doeth concerne the reſiancie of thoſe Iuſtices of the Peace which be named of the *Quorum*, and the holding of the Quarter Seſſions, is vnrepealed alſo: for that they concerne not the hyring, keeping, &c. order of Seruaunts, &c. (which might bee done without the Seſſions of the Peace) but the generall ſeruice of the Commiſsion and ſtatutes that doe authorize the Iuſtices of Peace, whereof alſo theſe Seſsions be called the Seſsions of the Peace.

And it is not new (in their opinions) to finde a generall ordinance in a particular ſtatute: as in the ſtatute 38. H. 8. cap. 39. made ſpecially for the erection of the court of Surueiors, there is a generall law, that al obligations concerning the Kings commoditie, ſhalbe made to himſelfe by the words *Domino regi, &c.*

Neither was there euer (ſay they) any Quarter Seſsions holden (only for the cauſes of Labourers) by the Iuſtices of Peace, although the petite Seſſions of Conſtables were chiefly bent to that ſeruice.

And that the ſaide ſtatute 2. H. 5. did meane the verie Seſſions of the Peace, and no other, they offer to proue by the authoritie of thoſe ſelfe ſame Statutes, which be alleadged alreadie for the holding of the Quarter Seſſions, vntill the time of this Acte of Queene Elizabeth, for that they haue heretofore ſo conſtrued

and taken the ſtatute.

But to make the proofe full, they adde, that euen this ſame ſtatute of repeale, 5. Eliz. cap. 4. doeth in a certaine place thereof ſpeake of the Quarter Seſsions to bee holden after Eaſter, which cannot bee vnderſtood of any other of thoſe ſtatutes concerning the Seſsions, but onely of 2. H. 5. cap. 4. becauſe the reſt (that haue certaintie) doe appoint that Seſsion, either at the Annunciation of the bleſſed Virgine, or in the ſecond weeke of Lent. And likewiſe, that the Statutes 8. Eliz. cap. 9. concerning the prices of veſſels, of Sope, Ale, and Beere: and 14. Eliz. cap. 5. and 18. Eliz. cap. 3. concerning poore people and vagabonds, haue mention of the Quarter Seſsions, to be holden next after Eaſter. Which Statutes, as they make not (in this point) any newe Lawe, but be grounded vpon former Lawe, ſuppoſed to be in force: So, allowing of any one of theſe foure Seſsions, they doe therein giue allowance of all the other three alſo.

For anſwer to the obiection, of the neerenes of the Michaelmas Seſsions, to the Michaelmas Terme, they ſay, that this was foreſeene to the makers of that Statute, 2. H. 5. who doe therein diſpenſe with the abſence of the Iuſtices of the Benches at *Weſtminſter*, the Barons of the Eſchequer, &c. And yet, to the end, that they alſo might once in the yeere be preſent at a Seſ-

ſion

ſion of the Peace (for the better direction of that ſeruice) the ſtatute 33. H. 8. cap. 10. did ſpecially appoint, that the Eaſter Seſsions ſhould be holden yeerely vpon the Tewſday next after Lowe Sunday, in euery ſhire of the Realme.

Now, if it ſhall ſeeme to any man a ſtrange thing, that I moue queſtion of the time of holding theſe Seſsions: I let him know, firſt, that it is one of the Articles of the Oath miniſtred to the Iuſtices of Peace, that they ſhall hold their Seſsions after the fourme of Statutes thereof made.

Secondly, that the articles of many Statutes, are inquirable (as it may ſeeme) onely at the Quarter Seſsions: becauſe they are not in the Commiſſion at all, and the Statutes themſelues doe appoint of none other Inquirie touching them, but at the Quarter Seſsions alone: and then, if the Iuſtices of Peace doe not holde their Quarter Seſsions according to the times appointed by Lawe, they be no Quarter but Speciall Seſsions, and conſequently, ſuch Statutes ſhal either not be enquired of at all, or els enquired of without warrant, both which be very great inconueniences. So that this matter (if it be not rightly conceiued) tendeth both to the hurt of the conſcience, & to the hindrance of this ſeruice. And therefore, it is to be wiſhed, that as the oath of the Iuſtices of Peace is one ouer all, & the ſeruice ought each where to be alike:

So it might be made knowen, either by declaration of these old lawes, or by ordaining of one new, what ought to bee vniformly done and followed in this behalfe.

How long the Quarter *Sessions* shall continue.

Touching the continuance of these Quarter Sessions, I haue shortly but this one thing to say: that almost two hundred yeres ago, it was ordained by Statute (12. R. 2. cap. 10.) that they should bee continued three dayes together (if need were) vpon paine of punishment: And yet in these dayes of ours, wherein the affaires of the Sessions bee exceedingly increased (and consequently, more neede to prolong them now, then before) many do scantly affoord them three whole houres, besides that time which is spent in calling of the Countrie, and giuing of the charge.

Things referred to the Quarter *Sessions*.

But it is now more then time that I descend to some of those statutes, which do specially relie vpon the Quarter Sessions: and therefore I wil first begin with such as haue reference indifferently to any of them.

Pope.

The Iustices of Peace may in their open Quarter Sessions, enquire of, heare, and determine, all offences (except treason and misprision of treason) committed against the Acte made (23. El. cap. 1.) for retcining the Queenes subiects in their due obedience.

Pope.

They may also in their open Quarter Sessions, enquire of such as doe extoll the vsurped authority

authoritie of the sea of *Rome*, against the statute 5.El.cap.1. And the Clarke of the Peace must reade that Act at euery of the quarter Sessions. A& read.

And they may in their generall (or Quarter) Sessions, enquire of seditious wordes and rumours vttered against the Queenes Maiestie, 23.Eliz.cap.2. Seditious words.

All the Articles, mentioned in the Statute (33.H.8. cap. 10.) shall be enquired of, and reformed by the Iustices of Peace in their auncient Quarter Sessions. 37.H.8.cap.7. Execution of Statutes.

They may in their generall Sessions determine of the offences of killing & selling Wainlings vnder two yeeres age, 24.H.8.cap.9: 13. El.ca.25: & 27.El.ca.11. and of the offences of not keeping Milch Kine and Calues, 2. & 3. Phil.& Mar.ca.3: & 13.El.cap.25. Wainlings. Milch Kine and Calues.

The Enquirie, Hearing, and determination of Forestallings, Ingrossings, & Regratings, may be at the quarter Sessions, 5.Ed.6.c.14. Forestalling.

The Enquirie, whether Alehouse keepers haue forfeited their Recognusances, ought to be at the Quarter Sessions, 5.Ed.6.ca.25. Alehouse.

The Fine for vnlawful hunting by night, or with painted faces, shall be set at the next generall Sessions, 1.H.7.ca.7. Hunting.

Iustices of the Peace, may in their Quarter Sessions heare and determine offences against the statute of Armour, 4.& 5.Phil.& M.cap.2. and may there enquire of, heare, and determine Armour.

the

Horses. the offences of putting to pasture any stoned Horses, &c. vnder the height appointed by the statute 32.H.8.cap.13: And may there also, enquire of conueying Horses into *Scotland*, 23. H.8.c.16:1.E.6.c.5: & 1.El.c.8.

High wayes. They may at their like Sessions, enquire of, and determine the offences of not amending the high wayes, 2.& 3.Phi.& Mar.cap.8:5.Eliz.cap.13:& 18.Elizab.cap.9.

Keepe households. In their Quarter and Generall Sessions, they ought to enquire of, heare, and determine the offences of not keeping continuall households vpon the Precinctes of the late Monasteries, 27.H.8. cap.5: 5.Elizab.cap.2: & 14. El.cap.11:27.El.ca.11.

Informers. And in their quarter Sessions, they may heare and determine the offences of Informers, 18.

Periurie. Eliz.cap 5:& 27.Eliz.cap.10. And at the like Sessions, they may do the like for offendors in Periurie, 5.El.cap.9:27.El.cap.11.

Counterfet Tokens or Letters. Such as be suspected of vsing counterfeite Tokens or Letters, may be called by processe to the next Generall Sessions, and must be conuicted there, 33.H.8.cap.1.

Wood. Iustices of the Peace may in their open quarter Sessions, call before them the owner of a Wood, and twelue of the Commoners there, for setting out the fourth part thereof, 35.H.8. cap.17:& 13.Eli.cap.25.

Master and Seruant. The proofe of the sufficiencie or insufficiencie

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tie of the cause, for which the master may put away his seruant, or the seruant may depart frō his master before the end of the terme, shall be made at the quarter Sessions, 5. Eliz. cap. 4.

The licences for Badgers, Drouers, &c. are to bee graunted in the open Quarter Sessions, 5. Eliz. cap. 12. and the prohibition of transporting corne, is to be made by the more part of the Iustices of Peace at their Quarter Sessions, 13 Eliz. cap. 13. Badgers. Transport Corne.

The licences that the poore of surcharged Cities or Townes, may beg, are to be giuen at the generall Sessions: and hee that is grieued with any taxation made vpon him for the poore, may be eased there: and the taxation for the relefe of the prisoners in Gaoles, ought to bee made there also, 14. Eliz. cap. 5. Poore. Prisoners.

The assignment of such as shall keepe any Tauerne to vtter Wine, ought by the statute (7. Edw. 6. cap. 5.) to be made at the generall Sessions. Tauerne.

A Beggars child may at the generall Sessions, bee bounde to serue any Subiect of this Realme, being of honest calling, 14. Eliz. cap. 5: & 18. El. cap. 3. Beggars child.

The Dockets of Purueiors ought to be deliuered ouer to the Iustices of Peace at the next generall Sessions, 2. & 3. Phil. & Mar. cap. 6. Purueyor.

A decree may be made at the Quarters Sessions, for the continuance of a Cotage that hath not

not 4. acres of ground, and there may the Iustices enquire, heare and determine, of Cotages and Inmates, in offence of the Statute. 31. Eliz. cap. 7.

Inmates.

All offences against any statute for not vsing any Lawfull game, or for vsing any vnlawfull games, or for not hauing Bowes and Arrowes according to the lawe, or for vsing any Arte or misterie in which the partie hath not bene brought vp, according to the Statute thereof, shalbe sued, or otherwise enquired of, heard, and determined, in the Quarter Sessions of the Peace, or Assises of the Shire where they shalbe committed, or in the Leete within the which they shall happen. 31. El. cap. 5.

Lawfull games.

The Acte of rebellious assemblies (or the effect thereof) ought to be openly read at euery Quarter Sessions, 1. Mar. Parl. 1. cap. 12: & 1. El. cap. 17.

Act read.

The Iustices of Peace haue power (in their open Sesions) to enquire, heare, and determine the defaults of Vndershirifes, clarkes of Shirifes or Vndershirifes, and of Baylifes, &c. in not taking the Oaths appointed by the Statute, 27. El. cap. 12.

And enquire of others, whether the Proclamation (set foorth 4. Hen. 7. cap. 12.) be not yet to be read at euery Quarter Sesion also: for some doe thinke, that it was to endure for the time of that King onely.

Proclamation read.

These

These and some others (which peraduenture I omit) haue reference (as you see) to any of the same generall Sessions: for so many of the which, as be inquirable (and ought therefore to be giuen in charge) I may seeme, either to haue committed a Tautologie in reporting them twice, or (which is worse) to haue written a Repugnancie, in that I did first deliuer them as common to all Sessions of the Peace, and doe now here restraine them as proper to the generall. But this is shortly the cause of my so doing. Some men be of the opinion, that these statutes which be inquirable (by expresse wordes) at the Quarter Sessions onely, may neuertheless be enquired of at the speciall Sessions also. And I haue hitherto doubted, whether that be true in all cases, or no: for, as the Iustices of Peace haue none other warrant to enquire of these matters, but onely by those Statutes which doe appoint the enquirie to be made at the Quarter Sessions: So (as mee thinketh) they ought to pursue that warrant, if they will take vpon them to enquire, and haue any care that their doings be warranted. And I thinke it be no great doubt, but that as the Statutes doe many times giue degrees of power, sometimes in greater measure, and sometimes in lesse: So also, the same Statutes may restraine the authoritie of Enquirie to some certaine Sessions, and specially to the Quarter

The reason why some things be repeated.

Quarter Sessions, in respect that they be both more open, more cõmonly knowen before hand, and better furnished with Iustices, and consequently the meeter for administration of Iustice, specially in affaires of the waighter sort. And therefore, I haue in this part laboured, both to satisfie their opinion in the one, and to serue mine owne phantasie in the other.

Easter Sessions. But nowe also, let vs looke out some such things, as be left onely to the Easter, or Michaelmasse Sessions.

Prices of Vessels. The prices of vessels, for Sope, Ale, and Beere, shall be set and proclaimed by the Iustices of Peace, at their Quarter Sessions after Easter. 8. El. ca. 9.

Wages of Seruants. The wages of Seruants and Labourers, are to be rated by the Iustices of Peace at their Easter Sessions, or within sixe weekes after Easter, 5. Elizab. ca. 4.

Poore. And they must yeerely in the same Sessions, examine the performance, or not performance of the statute made for the poore, 14. Eliz. ca. 5.

Worke and correction for idle persons. They must also in the same generall Sessions yeerely, take order for the prouision of stockes and store, for the setting of youth and idle persons on worke: and ought then also to appoint houses of correction for such as will not worke. 18. El. ca. 3.

At the Quarter Sessions to bee holden after Michaelmasse,

Michaelmasse, the Iustices of Peace are to appoint Searchers for Brasse & Pewter. 19.H.7. cap.6: & 4.H.8.cap.7. Michaelmasse Sessions. Brasse and Pewter.

And at the generall Sessions after Michaelmasse, two Iustices of the Peace ought to be appointed by the *Custos Rotulorum*, or (in his absence) by the eldest of the *Quorum*, for the ouersight & controlement of the Shirifes bookes, &c.11.H.7.ca.15. Shirifes bookes.

In the number of particular Statutes, concerning the Quarter Sessions, these may haue place: Particular Statutes.

33.H.6.ca.7. For Atturneis in *Norfolke*. *Norfolke.*
26.H.8.ca.5. For passage ouer *Seuerne*. *Seuerne.*
32.H.8.ca.43. For Sessions in *Cheshire*. *Cheshire.*
2.& 3.Ph.& Mar. Of Wools in *Halifaxe*. *Halifaxe.*
23.El.ca.12. For pauing without *Algate*. *Algate.*
27.El.ca.24. For the Sea bankes in *Norfolke*.
25.Eliz. cap. 19. For the high wayes in *Kent*, &c.

Of

Of the Speciall *Sessions* of the Peace.

Cap. xx.

THe speciall Sessions of the Peace, doe varie from the generall, in this chiefly, that they be holden at other times when it shall please the Iustices themselues, or any two of them (the one being of the *Quorum*) to appoint them. And this power they haue, not only by the Commission, but also by the Statute 2. Hen. 5. cap. 4. which alloweth them to doe it More often (then the foure times) if neede doe so require.

They be also (for the most part) summoned for some speciall businesse, and not directed to the generall seruice of the Commission: And yet, there is no doubt, but that all the Articles within the Commission of the Peace, are both inquirable and determinable at any special Session of the Peace.

What things be inquirable, at the speciall *Sessions* of the Peace.

M. Fitzh. (as I haue already noted) vseth a thirde difference betweene the generall and speciall Sessions of the Peace: affirming, that whereas at the generall Sessions, the Iustices of Peace ought of dutie to giue in charge, all matters (within the Commission, or Statutes) that are to be determined before them: yet neuertheless at the speciall Sessions they are at libertie to giue in charge either all, or any of them, as it shall

it shall seeme good vnto themselues.

I will not gainesay, but that the Iustices of Peace may at any speciall Session of the Peace giue in charge all such Statutes as doe giue vnto them a generall power of enquirie (without vsing mention of any Session) as doeth the Statute 25. Henr. 8. cap. 13. of Sheepe: yea, I will grant, that they may also at their speciall Sessions of the Peace giue in charge to enquire vpon all such other Statutes, as doe vse the worde Sessions indifferently, without adding Generall, or Speciall: of which sort there bee a great many, as 5. Edw. 6. cap. 4. of fighting in Church, or Churchyard: 14. Hen. 8. cap. 11: & 19. H. 7. cap. 11. of hunting: 5. Eliz. cap. 13. of linnen cloth: 2. & 3. Phil. & Mar. cap. 7. of Faires and Markets: 5. H. 4. cap. 3. of Seawatch: and 7. E. 6. cap. 5. of Wines: and sundry others. But, whether they may there also enquire of such other statutes, as doe only assigne the enquirie to bee made at the Quarter Sessions, you haue heard my mind, and read my reasons in the Chapter last before.

The vse of the speciall Sessions.

Howsoeuer it be, there might be great vse of the speciall Sessions of the Peace, if they were nowe and then holden (betweene the Quarter Sessions) to deliuer the gaoles of vnruly seruants, sturdy vagabonds, idle poore folkes, petitetheeues, and some others. For it is dayly proued, that many (being sent thither for correction)

rection) do ſucke nothing but corruption there: ſo as they be worſe when they come foorth, then they were when they were firſt committed: which euill happeneth by long abode there in wicked companie: whereas, if they had more ſpeedie triall, both they ſhould be amended, and the Countrie leſſe charged by it.

Forraine Realmes and Countries doe reape the fruite of ſpeedie Iuſtice: and if our Gaoles in *England* were more often ſwept & emptied, I doubt not but that we alſo ſhould finde a ſenſible profit to ariſe thereby. Peraduenture ſome man will ſay, that by this meane we ſhal draw vpon vs againe the ſame inconuenience of troubling the Countrie that happened by the ſixe weekes Seſſions, which were therefore abrogated by the Statute, 37. H. 8. ca. 7. But that is not to be feared: for whereas thoſe Seſſions were to be holden in euery limite of the Shire, theſe may be kept onely in the Towne where the Gaole ſtandeth: the which, (ſince it is commonly populous,) ſhall be eaſily able to furniſh this ſeruice, without calling any other remote part of the countrie to it.

The forme of the Precept for Summons of a Speciall *Seſſion*, may be thus.

A. B. C. D. E. F. & G. H. *Iuſticiarij (inter alios) dom. Reg. nunc ad pacem in comitatu Kanciæ conſeruandam aſſignati, necnon ad diuerſa*

uerſas felonias, &c. vicecomiti comitatus prædicti ſalutem: Ex parte dict. dominæ Reginæ tibi præcipimus firmiter iniungentes, quod non omittas propter aliquam libertatem infra Hundreda de O.P.& Q. aut eorum aliquod, in comitatu prædicto, quin venire facias coram nobis apud R. infra Hundredum de O. prædict. decimo die Aug. proximo futuro. 24. probos & legales homines de eiſdem Hundredis, ad inquirendum tunc ibi, pro dicta domina Regina, tam ſuper quibuſdam articulis in ſtatuto in parliamento dictæ dominæ Reginæ nunc anno regni ſui quinto tent. edit. artifices, laboratores, ſeruientes, & apprenticios concernentibus, quàm ſuper articulis quibuſdam in ſtatuto in parliamento dictæ dominæ Reginæ anno regni ſui decimo quarto tent. edict. roguos, vagabundos, validos mendicantes, & alios pauperes tangentibus. Proclamari etiam facias in idoneis locis per Hundreda prædicta. quod omnes qui verſus prædictos artifices, laboratores, ſeruientes, apprenticios, roguos, vagabondos, validos mendicantes, & alios pauperes, ſeu eorum aliquos conqueri voluerint, ſint tunc ibidem coram nobis ad proſequendum verſus eos parati. Et ſi ſis ibi tunc, vel vicecomes tuus, habens nomina Iuratorum prædictorum, & hoc noſtrum Breue. Teſtibus nobis præfatis A.B.C.D.E.F.& G.H. apud I. in comitatu prædict. vltimo die Martij. Anno regni dictæ dom. noſtræ Elizabethæ Dei gratia Angliæ &c. Reginæ, &c. 34.

Of the rewards and Puniſh-ments, due to *Iuſtices* of the Peace in reſpect of their *Seſſions*.

CAP. XXI.

WEll and euill doing, do from the firſt to the laſt, deſerue reward & puniſhment: and therefore, as wee cloſed vp the firſt part of this Treatiſe with them: So alſo ſhall this laſt booke receiue the ſame concluſion.

The Wages of the Iuſtice of the Peace at the Quarter Seſsions.

Whileſt it was at the libertie of the Iuſtices of Peace to holde their Quarter Seſsions as ſhort time as they would, the Law did not allow them any wages for their paines. But when the Statute (12. R. 2. cap. 10.) had bound them (vnder paine of puniſhment) to continue their Seſsions three dayes together (if the affaires of their office did ſo require) then the ſame ſtatute thought it meete alſo, to allow to euery of them foure ſhillings by the day, for the time of their Seſſion, to be paid by the handes of the Shirife, out of the Fines and Amerciamentes riſing of the ſame Seſsions: And that the Lordes Franchiſes, ſhould bee contributories to thoſe Wages, after the proportion of their partes of the ſaid Fines and Amerciaments.

But, becauſe it was very Dilatorie for the Iuſtices of Peace, to take thoſe Wages, at the handes of the Shirife (as I haue already touched) vpon

vpon the Eſtreate ſent out of the Eſchequer: and for that alſo it grew in queſtion, whether ſuch Lordes, as were named in the Commiſsions of the Peace, ſhould be partakers of the ſame Wages: the Statute (14. R. 2. cap. 11.) did plainly prouide, that the Wages of theſe Iuſtices ſhould be leuied and payed by the Shirife vpon Eſtreates doubled indented betweene the Shirife and them: And that no Duke, Earle, Baron, or Baronet (albeit they were Iuſtices of the Peace, and did holde their Seſsions with other eight Iuſtices) ſhould take any Wages for their Office in this behalfe.

And hereof alſo M. Mar. collecteth, that howſoeuer many Commiſsioners of the Peace there ſhalbe aſſembled at theſe Seſsions, yet only eight of them ſhall receiue the wages: becauſe (ſayth hee) that at ſuch time as theſe wages were firſt appoynted, the lawe did take knowledge and make allowance onely of eight Iuſtices and no more. And he alſo maketh it doubtfull, whether it lie not in the power of the Barons of the Eſchequer, to appoint which eyght (when moe be aſſembled at the Seſsions) ſhall haue the wages payd vnto them.

For the firſt poynt, it woulde bee ſomewhat hard (in deede) to ſtraine that Statute ſo farre, as to giue wages thereby to ſo many Iuſtices as bee nowe at theſe dayes in euery Shire, and would be preſent at the Seſsions. Yet the

ſtatute of Labourers, 5. Eli. ca. 4. that willeth the Iuſtices of Peace in euery ſhire to diuide themſelues, and to keepe two ſpeciall ſittings yerely for the execution of the Lawe, alloweth to as many of them as ſhall giue their attendance fiue ſhillings a day for three dayes together. But concerning the latter point, it ſeemeth by the latter ſtatute it ſelfe, that the Shirife ſhall firſt pay the wages, and then the Barons ſhall make the allowance according to the Indenture: So that I ſee no libertie of ſuch nomination left vnto the Barons,

I confeſſe that it might breed both offence againſt the Shirife, and a iealouſie among the Iuſtices themſelues, to haue one of them preferred before another in this payment: and therefore I thinke it wiſely done (as it is ſomewhere vſed) to beſtowe the whole allowance vpon the defraying of their common diet.

If the Fines and Amercements of the ſame Seſſions (ſaieth M. Marrow) will not fully amount to the ſumme of the wages then due to the Iuſtices, yet ſhall the wages be ratably paid out of them, ſo farre as they will extend.

Furthermore thoſe two Iuſtices of the Peace, that doe in their Seſſions call before them any perſon ſuſpected to offend the Statute of Deerhayes, buckſtals, and Stalking, and doe examine him thereupon, and find him faultie therein, ſhall haue the tenth part of the forfaiture growing

Buckſtals.

growing thereby. 19.H.7.cap.11.

Hitherto of Reward, hencefoorth of punishment. It seemeth, by the opinion of some Iustices (2.R.3.10.) that if a Iustice of the Peace do any thing of Record ignorantly and for want of knowledge, that he shall not bee punished for it. And this opinion of theirs is not newe in this Realme, although it bee otherwise truely sayde, *Imperitia quoque culpæ adnumeratur*: for you may read in the olde lawes, of King Edgar (*cap.*3.) and of King Canute (*cap.*14.) that if a Iudge had erred in his office, he might then haue excused himselfe by oath, That he did it not of euill minde, and that he knew not how to doe better: which I speake not, to comfort men in careleſſe ignorance, but to shew you that men may erre, and that erring by infirmitie they are not altogether vnworthy of pardon: and withall to let the Iustices of Peace see, that it may be a fault to erre by ignorance, & that therfore they ought to stay, (where they meete with *non liquet*) as their owne Commission doth direct them. Punishment at the common law.

Nowe, on the other side, if a Iustice of the Peace will craftily embesill an Enditement, or wilfully raze any part thereof, or maliciously enroll (or file) that for an Enditement, which was neuer founde by the Iurie: Then (by the resolution of al the Iustices assembled before the King in the Starre Chamber. 2.R.3.) a

Commission may goe out to enquire (by the othes of 12. men) of such his misdemeanor, and if he be conuicted thereof, hee deserueth to loose his Office, and to make fine to the Queene according to the quantitie of his misprision & offence, *ibid. Fo. 10.* And euen so may he be punished (as this Booke leadeth me to thinke) if he alter an Enditement of Trespasse, into an Enditement of Felonie, howsoeuer the opinion (27. lib. Ass. Pl. 18.) be found against it.

A Iustice of the Peace may also be endited, of the vnlawfull taking of money for doing his office, or of such other falsitie, Fitz. Nat. Br. 243. And if he cause a man to be endited at the Sessions, by former conspiracie, or indirect practise, he is punishable for it, as a priuate man. 21. Ed. 4. 67.

But if (in the handling of a cause at the open Sessions) it happen him to speake against an offendor, somewhat excessiuely, yet he shall not be punished for it: *Iuris enim executio, non habet iniuriam:* Neuertheless, Iudges ought not to abuse their tongues by intemperanee, but they must rather take great heede (as Cicero, pro Font. said) *Quibus verbis vtantur, ne quid minùs moderatè positum, ne quid ab aliqua cupiditate prolapsum verbum esse videatur.*

Punishments by Statutes.

Thus farre of punishments by the common Lawe, now to those by Statutes.

If the Iustices of Peace, hauing taken a Recog-

Recognusance for an Alehouse, doe not certifie it at the next quarter Sessions of the Peace, they shall lose fiue marks, 5. E. 6. ca. 25. Alehouse. *Fiue marks.*

That next Iustice of the Peace which doeth not certifie at the next generall Sessions of the Peace, such presentments as the ouerseers of the Highwaies haue before presented vnto him, shall loose fiue pound for euery default, 2. & 3. Phil. & Mar. ca. 8: & 5. El. ca. 13. High wayes. *Fiue pounds.*

If any Iustice of the Peace (not being sicke, nor hauing other lawfull excuse, to bee testified vnder the Oath of one assessed in the Subsidie booke at fiue pound, &c.) do not assemble at the Easter Sessions, to rate the wages of seruaunts, &c. he shall loose ten pound to the Queene. 5. El. ca. 4. Seruants wages. *Ten pounds.*

And if any Iustice of the Peace (so assembled) shall depart thence, before conference had about the execution of this Acte for setting idle persons on worke, hee shall forfaite fiue pound, 18. El. cap. 3. Poore on worke. *Fiue pounds.*

The Iustice of the Peace which faileth to remoue (at the next quarter Sessions) the name of any person (authorized to shoote in a Gunne) that hath presented his name vnto him, shall lose xx. s. 2. E. 6. ca. 14. If that Statute doe so farre extend, whereof the words giue cause of doubt. Guns. *Twentie shillings.*

And if the Proclamation (annexed to the statute 4. H. 7.) ought now to be read, then if it bee not read at each quarter Sessions, euery Iustice of the Peace there present, shall loose twentie shillings, Proclamation read. *Twentie shillings.*

shillings, 4. Hen. 7. ca. 12.

Pope. If the Iustices of the Peace, before whome any presentment shall be made, at their Quarter Sessions, against any person for extolling the authoritie of the See of Rome, doe not certifie the same into the Kings Benche within 40. dayes after, if the Tearme be then open, and if not, then at the first day of the next full Tearme, they shall euery of them loose C. pound for euery default, 5. El. cap. 1.

An hundreth pound.

Examinatiõs. And those Iustices of the Peace, which doe not certifie into the Escheaquer, their examinations taken concerning the entring of plaints by the Shirifes, shall loose fourtie shillings, 11. Hen. 7. cap. 15.

Fortie shillings.

THE EPILOGVE.

The Epilogue. THus haue I (by the fauour of God) brought this Treatise to an ende; wherein if many things haue escaped me vnseene, I doe not greatly marueile, when I looke backe and beholde the varietie and multitude of the matter that I haue passed through: and it shall not be hard for him that meeteth with such Estrayes, to take and lodge them in their right *Titles* here.

Againe, if I shall be thought to haue heaped vp too many conceites (borowed out of *M. Marrowes* reading) I make answere, that I haue

I haue omitted many, and haue made the beſt choyce that I could.

If furthermore, I ſhall ſeeme to thoſe that be maſters in *Arte* and *Methode*, not to haue throughly obſerued their rules, and ſpecially that κατ' αὐτο, becauſe I doe many times mingle *aliena*, things not preciſely pertaining to my matter in hand: To them I ſay, that it is the receiued maner of teaching in our Law, *To ſhew things by their contraries and differents:* and ſeeing that great light commeth to the matter thereby, I may neither altogether condemne it as vnapt, nor reiect it as vnſeruiceable.

Moreouer, if I haue bene deceiued in laying downe ouerboldly mine owne opinion, I will no leſſe gladly be admoniſhed of it, then readily reforme my miſtakings.

Finally, whatſoeuer other thing is done amiſſe, I proteſt that it hath eſcaped of vnskill, and not proceeded of wilfulnes: and therfore, I deſire that I may be allowed the benefite of that *Pardon*, which (as I tolde you euen now) is in like caſe grauntable to a *Iuſtice* of the Peace.

FINIS.

A table

A Table conteining (verie neere) all the imprinted Statutes, both generall and particular, wherewith Iuſtices of the Peace haue in any ſort to deale.

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	51		The aſſiſe of Bread and Ale.
			The iudgement of the pillory.
			The ordinaunce for meaſuring.
			Of weights and meaſures.
Ed. the 1.	3	9	Of freſh ſuite after felons.
		10	Of Coroners.
		15	Of Bailement of Felons.
		25	Againſt maintenance.
		26	That Shirifs and other Miniſters ſhall take no rewards.
		27	Of fees for deliuering chapiters.
		28	Of maintenance of quarels.
	13	34	Of rauiſhing women.
		47	Of taking Salmons.
		49	Againſt maintenance.
			The Statute of *Wincheſter.*
	28	11	Againſt maintenance.
	34		For meaſuring of land.
			Definition of Champartors.
Ed. the 2.	1		For breaking Priſons.
	18		For Purueyours.
			For Eſtreats of the Exchequer.
Ed. the 3.	1	14	For maintenance of quarels.
		16	For keeping of the Peace.

Endite.

King.	Yeere.	Chap.	Contents:
		17	Enditements before Shirifes to be taken by Indenture.
	2	3	For comming before the Kings Iuſtices with force and armes.
		6	A confirmatiõ of the St. of *Wint.*
	4	2	Of Wardens of the Peace.
		4	That Purueyours pay in hande, and haue a warrant vnder the great or ſmall Seale.
		10	Againſt Shirifes & Gaolers that will not receiue theeues, and ſuch other into their Gaoles.
	5	2	Againſt the Kings Purueiors.
		10	Iurours that take money ſhal no more paſſe vpon Iuries.
		11	That Iuſtices aſſigned to determine felonies haue power to write to forreine Countries.
		14	Againſt Robertſmen, and drawlatches.
	14	10	Gaoles of the Counties to bee annexed to the Sherifes.
	18.St.2	2	Iuſtices of Peace made.
	20	4.& 5.	For mainteining of quarels.
	23	6	For Victuallers.
	25	1	For Purueyours.
	25. St 4.	3	For foreſtalling of Wines.
	25.St.5	9	Auncell weight taken away.
		10	For weight and meaſuring.
		15	For takers of Sheepe.
	27.St.2.	4	None going to the Staple, be deſturbed by the Kings takers.
		10	For waights of the Staple.
	28	11	For ſafegard of Marchants aliens comming within this Realme.
	34	1	For Iuſtices of Peace.
		2	For Purueyours.

Iuſtices

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		22	For Hawes found.
	36	2.3.4.5.6.	Againſt Purueyors.
		12	For the Seſſions of the Peace.
	37	19	For finding of Hawkes.
	42	9	For leuying of the greene waxe.
Ric.the 2	1	3	All Statutes of Purueyours confirmed.
		4	For maintenance of quarels.
		7	For giuing of Liueries.
	2	2	For foreſtalling of Wines.
	5	7	For entring into lands.
	7	8	For Purueiors.
		13	For riding in Harneſſe.
	12	3	A confirmation of all Statutes for Victualers.
		6	For bearing weapons.
		10	Iuſtices of Peace to puniſh Vagabonds, and for holding their Seſſions.
	13	4	Clarke of the Market.
		7	Iuſtices of Peace bee made anewe.
		8	For price of vitaile.
		9	For weights.
		13	For Hunters.
		19	For ſafegard of Fiſh.
	14	11	For aſſigning of Iuſtice of Peace.
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		4	For meaſuring Corne.
	16	3	The Clarke of the Market to haue ready his weights according to the Standard.
		4	For liueries of companies.
	17	8	For Riots and vnlawfull aſſemblies.

King.	Yeare.	Chap.	Content.
			blies.
		9	That Iuſtices of the Peace ſhall be conſeruatours of the Statutes made for Riuers.
		10	Two men of Lawe to bee aſſigned in the Commiſſion of the Peace to deliuer Gaoles.
	20	1	For riding armed in the Realme.
		2	For wearing of Liueries.
He. the 4.	1	7	For giuing of Liueries
		11	For extortion by Sherifes.
	2	14	For Purueyours.
		21	For giuing of Liueries.
	4	25	For Hoſtelers and Vitailers.
	5	3	For watch vpon the Sea coaſts.
		4	Multiplication made Felonie.
		5	For cutting tongues, and putting out of eyes.
		10	Iuſtices of Peace to impriſon men in the common Gaole.
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		14	For Goldsmiths selling worke of siluer.
	8	4	For giuing of Liueries.
		5	For weights.
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		10	For processe in Enditements & Appeales.
		14	For Felons and Murderers, that voyd themselues into woods.
	11	6	For Commission of Peace.
		8	For weights and measures.
		12	For Waxechandlors.
	14	4	For Sessions in *Middlesex*.
	18	11	A Iustice of Peace to haue twentie pound land.
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	20	8	For resistance of Purueyors.
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		10	For extortion of Sherifes.
		11	For leuying Knightes wages for the Parliament.
		13	Proclaiming the Statutes for Victualers.
	31	3	Of Attachments in the Courtes of the Marches.
	33	2	A repeale of an Acte for Outlagaries in *Lancaster*.
		7	For Attournies in *Norff.* & *Suff.*
Ed. the 4.	1	2	For Enditements & Presentmēts in Sherifes Turnes and Leets.
	8	2	For Liueries of companies.
	12	2	For Bowstaues.
		9	For Escheatours.
	17	4	For making of Tile.

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		11	For Bowstaues.
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He. the 7.	1	7	Against Hunters.
	3	1	Giuing of Liueries: and certifying of *Recognisance* coroners.
		2	Taking Maydens, Widowes, or Wiues against their wils, made Felonie.
	7	4	For Weights and Measures.
	11	4	One Weight and Measure to be vsed thorow the Realme.
		9	For the inhabitants of North & South *Tindale*.
		15	Against vntrue demeaning of Sherifes and their Officers in holding their Counties.
		17	Against destroying of Phesants and Partriches with vnlawfull Engines, and for Hawkes.
	12	5	For Weights and Measures.
	19	6	For Pewterers and Brasiers.
		11	For keeping of Deerehayes and Buckstalles.
		13	For punishment of Riots.
He. the 8.	1	7	Concerning the office of Coroners.
	3	12	For reformation of Impanels for the King.
	4	7	For Pewterers, and true weights and beames.
	6	6	For remitting Prisoners to the place where the crime was committed.

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		10	For Hunting the Hart.
	21	5	Fees for Teſtaments, and letters of Adminiſtration.
		7	Againſt ſeruaunts imbeſelling their Maſters goods.
	22	5	For repairing of bridges in High wayes.
		10	Concerning *Egyptians*.
		11	For Powdike in Marſhland.
		14	Howe perſons committing petie Treaſon ſhall abiure.
	23	2	Where and after what manner the Gaoles within England ſhall be made.
		4	That no Brewers make veſſels, and the contents of barrels.
		16	That no Horſes be conueyed into *Scotland* without licence.
	24	4	For ſowing of Flaxe & Hempe.
		7	Againſt killing of Calues.
		9	Againſt killing of Weinlings.
		10	For Crowe nettes.
		13	For exceſſe in apparell.
	25	6	For puniſhment of Buggerie.
		11	To auoid deſtruct. of wildfoule.
		13	What Sheepe a man may keepe.
	26	5	For not conueying any perſons goods or Cattels ouer the water of *Seuerne*, after Sunne ſet vntil Sunne riſing.
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	27	5	Iuſtices of Peace in *Cheſter*.
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		20	An order for Titles.
		24	For recontinuing of certaine liberties taken from the crown.
	32	3	Of Abiuration.
		7	For true payment of Tithes and offerings.
		9	Against maintenaunce, &c. vnlawfull buying of Titles.
		13	For breede of Horſes of higher ſtature.
		41	For baking of horſe bread.
		43	Seſſions in *Cheſter*.
	33	1	Concerning counterfaite letters or tokens.
		5	For keeping of great Horſes.
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		17	For confirmation and continuance of certaine Actes.
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		14	For certificate of conuicts to be made into the Kings bench.
	35	11	For paiment of Knights & Burgeſſes wages of the Parliament in *Wales*.
		17	For preſeruation of woods.
	37	1	Of the *Cuſtos Rotulorum*, and Clearks of the Peace.
		7	For abrogation of ſixe weekes Seſſions.
		8	That Enditements lacking *vi & armis* ſhall be good enough.
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King.	Yeere	Chap.	Content.
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		7	For cõtinuance of Processe notwithstanding newe commission of the Peace.
	23	12	Of poysoning.
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		14	Against shooting of haileshot.
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		24	For triall of murders in seuerall Counties.
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		2	For true making of Woollen clothes.
		21	Of retailing Butter and Cheese.
	5.6.	4	Against fighting and quarrelling in Churches.
		6	For true making of Woollen cloth.
		14	Against regrators, forestallers, and engrossers.
		15	Against regrators of tanned leather.
		24	For making of Hattes at *Norwich* and in *Norfolke*.
		25	That Alehousekeepers be bou[nd] by *Recognysance*.
	7	5	To auoid great prices of Wi[ne]
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		9	For the incorporation of Phisitions in *London*.
		12	Against vnlawfull assemblies.
Ph. & Ma.	1.2.	2	For reformation of excesse in apparell.
		4	For punishment of *Egyptians*.
		5	For restraint of Corne &c. ouer the Sea.
		13	An order for bailement of prisoners.
	2.3.	3	For keeping of milche Kine and rearing of Calues.
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		7	For buying of stolen Horses.
		8	For amending of Highwayes.
		10	For examination of prisoners suspected of mãslaughter or Fel.
		13	For Wools in *Halyfax*.
		15	That Purueyours shall not take vittaile within fiue miles of *Cambridge* or *Oxford*.
		16	For watermen vpon *Thames*.
		18	For commissions of Peace, and Gaole deliuerie in Townes corporate not being counties.
		19	For powdike in Marshland.
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		12	Againſt deceiptfull vſing of linnen cloth.
		16	Againſt rebellious aſſemblies.
		17	For preſeruation of ſpawne and frie of Fiſh.
		18	For continuance of certain Stat.
	5	1	For the aſſurance of the Queens power ouer all eſtates.
		2	For maintenance and encreaſe of tillage.
		4	Orders for artificers, ſeruants, & labourers.
		5	For maintenance of the Nauie.
		8	For Shoemakers, &c. vſing currying of Leather.
		9	For puniſhment of Periurie.
		10	For ſeruaunts embeſeling their Maiſters goods.
		12	For Badgers of corne, and Drouers of cattell to be licenced.
		13	For amending of High wayes.
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		17	For puniſhment of Buggerie.
		19	For repeale of a Stat. for conueying Horſe out of the Realme.
		20	For puniſhment of Vagabondes faining themſelues *Egyptians*.
		21	For puniſhment of vnlawfull taking of fiſh.
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		8	For repeale of a braunch of a Statute for the ſtatute of hor-

			ſes in the Ile of *Ely*.
			For repeale of a branch of a Statute for the prices of barrels and kilderkins.
		10	For Bowyers, and the price of Bowes.
	13	2	For bringing in, and putting in execution Bulles from *Rome*.
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		13	For increaſe of Tillage.
		14	For bringing Bowſtaues into the Realme.
		19	For making of Cappes.
		21	That Purueyors may take corne and vittaile within fiue miles of *Cambridge* and *Oxforde*, in certaine caſes.
		23	For pauing a ſtreete without Algate.
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		5	For puniſhment of Vagabondes and reliefe of the poore.
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		5	To redreſſe diſorders in common Informers vpon penall lawes.
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		9	the offenders in Rape & Burglarie, and an order for deliuering Clearks conuict without purgation.
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	23	1	For due obedience to ỹ Queene.
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		12	For giuing the othe to *Vnderſhirifes*.&c.
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		14	For the true making of *Malt*.
		19	For amending Highwayes in *Kent*.&c.
		22	Touchingthe hauen of *Chiche*, &c.
		24	For the Sea bankes in *Norfolke*.
		27	For ỹ High way to ỹ *Ile* of *Sheppy*
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An *Appendix*, conteining ſundry *Precedents*, concerning the *Peace*, and matters within the authoritie of the *Iuſtices* of the *Peace*.

And firſt you ſhall finde theſe Precedents, already ſet foorth in theſe bookes before, *videlicet*.

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Now

Now follow ſundry Enditementes, Preſentments and Proceſſes.

The Stile of the Seſsions.

Kanc.

Generalis Seſſio pacis, tenta apud Maidſtone *in comitatu prædicto, primo die Octobrii, Anno Regni ſereniſſimæ dominæ noſtræ* Elizabethæ, *dei gratia, Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. triceſimo, Coram* Henrico Cobham *milite, & ſocijs ſuis* Cuſtodibus *pacis dictæ dominæ Reginæ, ac* Iuſticiarijs *ſuis ad diuerſa felonias, tranſgreſſiones, & & alia malefacta in dicto comitatu perpetrata audiendum & terminandum aſſignatis.*

Enditements concerning Eccleſiaſticall cauſes.

For extolling the authoritie of the Pope.

IVratores preſentant pro domina Regina, quod I. S. de C. in comitatu prædicto Clericus, xx. die menſis Aprilis, anno regni ſereniſſimæ dominæ noſtræ Elizabethæ, dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris &c. triceſimo, apud D. in comitatu prædicto, ſcienter, conſideratè, malicioſe & directè palam

palam in preſentia multorum dictæ dominæ Reginæ noſtræ nunc ſubditorum, affirmauit, & defendit authoritatem Papæ Romani eccleſiaſticam in hoc regno Angliæ præantea vſurpatam, hijs expreſſis verbis anglicanis ſequentibus, viz. **I ſweare by the bleſſed Maſſe, and will auow that our holy father the Pope of Rome, is the ſupreme heade of the Church of England,** in magnam derogationem Regiæ authoritatis, & prerogatiuæ dictæ dominæ Reginæ noſtræ, ac contra coronam & dignitatem ſuam, necnon contra formam diuerſorum ſtatutorum in huiuſmodi caſu editorum & prouiſorum. Et quod A.B. de D. prædicta in comitatu prædicto **Waxchandelor,** ſciens ipſum I. S. dicta verba loquutum eſſe, ac dictam dicti Papæ authoritatem modo & forma vt preſertur, defendiſſe ipſum I. S. apud D. prædictum, poſtea ſcilicet, xxii. die dicti menſis Aprilis anno ſupradicto, conſolatus eſt & comfortauit, ex induſtria & ex præpoſito, & ad eam intentionem vt idem A. B. promoueret & efferret præfatam dicti Papæ authoritatem vſurpatam, in perniciosiſſimum aliorum exemplum, ac contra coronam, & dignitatem dictæ dominæ Reginæ noſtræ nunc, ac etiam contra formam diuerſorum ſtatutorum in eiuſmodi caſu prouiſorum & editorum.

For abſoluing from the Queenes obedience.

INquiratur pro domina Regina, ſi A. B. de C. in dicto comitatu clericus, ſexto die menſis Maij, Anno regni dominæ noſtræ Elizabethæ dei gratia Angliæ, Franciæ & Hyberniæ reginæ fidei defenſoris &c. Triceſimo, apud C. præfatam in comitatu prædicto, voluntariè & proditoriè conatus eſt, & practicauit abſoluere, perſuadere, & ſeducere quandam Ioannam W. de C. prædicta in comitatu prædicto viduam, à naturali obedientia, & ſubiectione ſua, quam eadem Ioanna erga dictam

dictam dominam noſtram reginam gerere debet, ad obediendum prętenſæ authoritati Sedis Romanæ, tunc & ibidem proditoriè præ ſe ferens & aſſerens ſe habere poteſtatem & facultatem id faciendi, & tunc & ibidem proditoriè dicens eidem Ioannæ hijs anglicis verbis ſequentibus, **mother Ioane, you will haue a blacke ſoule (I tell you) if you doe not the ſooner forſake the Queene** (innuendo prædictam dominam noſtram reginam nunc) **and her hereſies, and yeelde your ſelfe to the obedience of our mother Church the holy See of Rome**: contra pacem dictæ dominæ noſtræ Reginæ, coronam & regalem dignitatem ſuam, & contra formam ſtatuti in parliamento dictæ dominæ noſtræ Reginæ tento apud Weſtmonaſterium in comitatu Middleſexiæ, anno dicti regni ſui viceſimo tertio in huiuſmodi caſu prouiſi & editi.

For a Ieſuite, and his Receiuer.

INquiratur pro domina Regina. Si E. C. nuper de S. in comitatu prædicto clericus, natus apud S. prædictam in comitatu prædicto, atque infra annum iam proximè præteritum factus & profeſſus Ieſuita per authoritatem à ſede Romana deriuatam, proditoriè apud S. prædict. in comitatu prædicto, ſexto die Iulij, anno regni dictæ dom. noſtræ Elizabethæ, dei gratia Angliæ, Franciæ & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, à partibus tranſmarinis applicuit, & dicto ſexto die anno ſupradicto, & nonnullis alijs diebus tunc proximè ſequentibus apud S. prædictam in comitatu prædicto, proditoriè moram fecit ac remanſit: contra formam cuiuſdam ſtatuti in parliamento dictæ dom. Reginæ noſtræ nunc tento apud Weſtmonaſterium in comitatu Middleſexiæ, anno regni ſui viceſimo ſeptimo, in huiuſmodi caſu prouiſi & editi, ac contra pacem dictæ dom. Reginæ, coronam, & dignitatem ſuas. Et ſi W.

B. de

B.de S.prædict.in dicto com. mercator,ſcienter,voluntariè,& felonicè, poſtea ſcilicet, dicto ſexto die dicti menſis Iulij anno ſupradicto, prædictum E. C. apud S. prædictam in comitatu prædicto receptauit & comfortauit,dicto W.B. ad tunc & ibidem ad largum, & extra priſonam exiſtentem,ac præfatum E. C. huiuſmodi leſuitam eſſe,tunc & ibidem ſciente & cognoſcente.Contra formam Statuti prædicti, ac contra pacem, coronam & dignitatem dictæ dom Reg.noſtræ.

For ſaying and hearing of Maſſe.

IVratores præſentant pro dom. Regina, quod Ioh. R. nuper de C. in Comitatu prædicto clericus 8. die Aprilis,Anno regni dictæ dom.noſtræ Elizabethæ Dei gratia,Angliæ,Franciæ,& Hyberniæ Reginæ, fidei defenſoris,&c. Triceſimo,apuc C. prædictam in comitatu prædicto,voluntariè dixit,& celebrauit vnam miſſam, contra formam cuiuſdam Statuti in Parliamento dictæ dominæ noſtræ Reginæ tento apud Weſtmonaſterium in comitatu Middleſexiæ,Anno regni ſui viceſimo tertio in hoc caſu prouiſi & editi, & contra pacem dictæ dom.Reginæ, coronam & dignitatem ſuam: Et quod Maria B.de C.prædicta in com.prædicto vidua, dicto 8. die Aprilis anno ſupradicto apud C.prædictam in com. prædicto,interfuit præſens tempore dictæ celebrationis miſſæ prædictæ, ac eandem miſſam (ſic vt prætertur dictam) adtunc & ibidem voluntariè audiuit, contra formam Statuti prædicti,ac contra pacem,coronam & dignitatem dictæ dom.Reg.noſtræ.

For being abſent from the Church.

IVratores pro domina Regina ſuper Sacramentum ſuum præſentant,quod A.B nuper de C. in comitatu prædicto Armiger,qui x.die Iulij anno regni dominæ noſtræ Elizab.Dei gratia Angliæ,Franciæ,& Hybernię Reginæ,

Reginæ, fidei defensoris &c. Tricesimo, fuit ætatis 16. annorum & vltra, non accessit (Anglicè **did not repaire**) ad ecclesiam suam parochialem de D. prædicta, nec ad aliquam aliam ecclesiam, capellam, aut vsualem locum communis precationis, & ibidem moratus fuit tempore communis precationis, ad aliquod tempus infra sex menses tunc proximè sequentes, sed abstinuit ab eisdem (Anglicè **hath forborne the same**) per spacium prædictorum sex mensium, contra formam cuiusdam Statuti apud Westm. in comitatu Middlesex anno regni dictæ dom. Reginæ nunc primo, pro vniformitate communis precationis editi & prouisi, ac contra formam Statuti Anno regni dict. dom. Reg. nunc vicesimo tertio in huiusmodi casu editi & prouisi, ac in contemptum dictæ dom. Reginæ nunc, & contra coronam, & dignitatem suas, &c.

Against a Schoolemaster not licenced, nor resorting to the Church, and against his mainteiner.

IVratores præsentant pro domina Regina, Quòd K. M. de I. in dicto comitatu Scholæ magister, à secundo die Septembris, Anno regni dictæ dom. nostræ Elizabethæ, Dei gratia, Angliæ, Franciæ, & Hyberniæ Reginæ fidei defensoris, &c. Tricesimo, vsque nunc in domo mansionali cuiusdam E. A. de I. prædicta in comitatu prędicto Viduæ, ausus est, & præsumpsit erudire, & docere pueros dictæ E. A. ibidem, cum ibidem K. M. durante dicto tempore non accessit nec resortauit ad ecclesiam parochialem de I. prædicta in comitatu prędicto, nec ad vllam aliam capellam, aut vsualem locum communium precationum, sed se penitus per totum tempus prædictum abinde absentauit, nullam habens legitimam aut rationalem dictæ suæ absentiæ excusationem, & cum idem K. M. non est per Episcopum diœcesis loci illius in quo sita est prædicta ecclesia paro-

chiali

chialis de I. prædicta, aut per eius loci ordinarium, licentiatus, aut allocatus ad erudiendum & docendum: In magnum dictæ Dom. noſtræ Reg. contemptum, ac contra formam ſtatuti in Parliamento dictæ dom. Reg. (tento apud Weſtm. in comitatu Middleſex, Anno regni ſui viceſimo tertio) in huiuſmodi caſu prouiſi & editi. Et quod prædicta E.A. voluntariè in domo ſua prædicta per totum tempus prædictum cuſtodiuit & manutenuit præfatum K.M. modo & forma erudientem & docentem, ſciens ipſum K. M. modo & forma prædictis ſe abſentaſſe, In contemptum dictæ dom. Reg. ac contra formam Statuti prædicti.

For Periurie in a depoſition.

IVratores præſentant pro domina Regna, Quod F. E. de G. in comitatu prædicto Tailor, 24. die Iunij, An. regni dom. noſtræ Elizabethæ Dei gratia Angliæ, Franciæ & Hyberniæ Reginæ fidei defenſoris, &c. Triceſimo, apud M. in comitatu prædicto coram A.B.C.D. & E. F. Armigeris, Commiſſionarijs (virtute Breuis dictæ dom. Reginæ de Commiſſione, prædictis A.B.C. D. & E.F. directi, ac extra curiam Wardorum & liberationum dictæ dom. Reginæ apud Weſtminſter in comitatu Middleſexiæ, præantea emanentis) pro examinatione quorumcunque teſtium, tam ex parte cuiuſdam I.L. de M. prædicta in comitatu prædicto Weauer querentis, quàm ex parte H. M. de N. in dicto comitatu Yeoman defendentis, in quadam cauſa (ſiue materia) inter ipſos I.L. & H.M. tunc in dicta curia Wardorum & liberationum controuerſa, & ibidem dependente in variantia pro titulo vnius meſſuagij cum pertinentijs in M. prædicta in dicto comitatu, perſonaliter conſtitutus, Ac tunc & ibidem exiſtens teſtis productus per prædictum I.L. ad teſtificandum & deponendum in cauſa prædicta ex parte ipſius I. L. & iuratus per Commiſſionarios prędictos, ad veritatem dicendam ſuper articulis interro-

interrogatorijs ei per dictos Commissionarios ad tunc & ibidem ministrandis, septimo die Articulo interrogatorio ei ad tunc & ibidem per dictos Cõmissionarios ex parte prædicti I. L. ministrato dixit, & super Sacramentum suum prædict. affirmauit, & deposuit, prout in hijs Anglicis verbis immediatè sequitur, viz. **To the 7. Interrogatorie he saieth by vertue of his said oath, that the said Messuage was neuer occupied by the said H. M. the defendant**, prout per dictam depositionem prædicti E. F. inter alia per præfatos Commissionarios in dictam curiam Wardorum & liberationum certificatam & missam, ac ibidem de recordo adhuc remanentem, plenè apparet: vbi reuera & facto, dictum messuagium diu occupatum fuit per prænominatum H. M. defendentem. Et sic, idem E. F. dicto vicesimo quarto die Iunij, Anno supradicto apud M. prædictam in dicto comitatu, coram prænominatis A. B. C. D. & E. F. (Commissionarijs dictæ dom. Reginæ sic vt præfertur existentibus) voluntariè, & corruptè, periurium commisit voluntarium & corruptum, contra formam diuersorum statutorum in huiusmodi casu prouisorum & editorum.

For killing a man by Witchcraft.

IVratores præsentant pro domina Regina, Quòd Sara B. de C. in dicto comitatu prædict. vidua, 20. die Aug. Anno regni dict. dom. nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ fidei defensoris, &c. Tricesimo, ac diuersis alijs diebus post dict. 20. diem, quasdam artes detestandas, Anglicè vocatas **witchcraft & Sorcerie**, nequiter & felonicè practicauit, & exercuit apud C. prædict. in comitatu prædicto, in, super, & contra quendam Iohannem N. de C. prædicta in dicto comitatu **Labourer**, per quas quidem artes dict. I. N. à prædict. 20. die Augusti, Anno 30. supradict. vsq; diem prædict. mensis Augusti, Anno 30. supradicto,

periculo.

periculosissimè ac mortaliter ægrotabat & languebat, Ac eodem 24. die Augusti, Anno supradicto idem I.N. per Artes prædictas, apud C. prædict. in dicto comitatu obijt. Et sic Iuratores prædicti præsentant, quod eadem Sara ipsum Iohannem N. apud C. prædictam modo & forma supradictis, ex malitia sua præcogitata, voluntariè, diabolicè, nequiter, & felonicè per Artes prædictas occidit ac interfecit, contra pacem dictæ dom. Reg. nostræ, ac contra formam statuti in parliamento dictæ dom. Reg. nostræ (tento apud Westm. in comitatu Middlesexiæ, Anno regni sui prædicti 5.) in huiusmodi casu prouisi ac editi.

For bewitching a Horse.

INquiratur pro Domina Regina, si Sara B. de C. in dicto comitatu vidua 20. die Augusti, Anno regni dictæ Dom. nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ fidei defensoris, &c. Tricesimo, quasdam Artes nequissimas (Anglicè vocatas **Inchantments and Charmes**) apud C. prædict. in comitatu prædicto, malitiosè & diabolicè, in, super, & contra quendam equum, coloris albi, pretij 4. libr. de bonis & catallis cuiusdam I. S. de C. prædicta in dicto comitatu generosi existentem, exercuit, & practicauit. Per quod idem equus dicti I.S. 20. die prædicto apud C. prædict. omnino empeioratus est, & vastatus: contra pacem dict. Dom. Reg. ac contra formam statuti in eiusmodi casu prouisi, ac editi.

For fighting in the Churchyard.

INquiratur pro domina Regina, si G.F. de L. in dicto comitatu generosus, octauo die Septemb. Anno regni dict dom. nostræ Elizab. dei gratia Angliæ, Franciæ, & Hyber. Reg. fidei defensoris &c. Tricesimo, in cœmiterio ecclesiæ parochialis de L. prædicta, in dicto comitatu, malitiosè extraxit pugionem suum in quendam I S. de L. prædicta **Yeoman**, ea intentione ad percutiendum

prædictum I. S. cum dicto pugione, contra pacem dictæ Dom. Reg. noſtræ nunc, ac contra formam Statuti in parliamento domini Edwardi nuper Regis Angliæ ſexti (tento apud Weſtmon. in comitatu Middleſexiæ, Anno regni dicti nuper domini Regis quinto) in huiuſmodi caſu prouiſi, ac editi.

For a Burghlarie in a Church.

IVratores præſentant pro Domina Regina, quod A. B. de C. in comitatu prædicto **Sailer**, primo die Septembr. An. regni dictæ Dom. noſtræ Elizabethæ Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, vi & armis eccleſiam parochialem de C. prædicta in dicto comitatu, felonicè & burghlariter fregit & intrauit noctanter, *viz.* inter horas decimam, & vndecimam poſt meridiem eiuſdem diei, ac vnum calicem argenteum (Anglicè vocatum, a **Communion Cup**) ad valentiam 60. ſolidorum, de bonis & catallis parochianorum de C. prædicta ad tunc exiſtentem in eadem eccleſia & tunc ibidem inuentum felonicè cepit, & aſportauit, contra pacem dictæ Dom. Reg. noſtræ nunc, coronam & dignitatem ſuam.

Enditements and Preſentments, concerning Lay cauſes.

For Counterfaiting money, and for receiuing the Counterfaiter.

IVratores pro Dom. Regina præſentant, quod T. S. de W. in comitatu prædicto **Tailor**, machinans dictam Dominam Reginam, & populum ſuum callidè & proditoriè decipere, 20. die menſis Decembr. Anno regni dictæ Dominæ noſtræ Elizabethæ Dei

Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defensoris, &c. Vicesimo nono, vnam peciam monetæ apud W. prædictam in comitatu prędicto, de stanno & alijs mixtis metallis, instar & ad similitudinem bonæ & legalis monetæ & cunei dictæ Dominæ nostrę huius regni sui Angliæ (vocatum Anglicè **a shilling, or peece of twelue pence**) falsò & proditoriè fabricauit, cudit, & controfecit: posteáque, *viz.* dicto die 20. Anno supradicto, eandem peciam (sic vt præmittitur, falsò, & proditoriè fabricatam & controfactam) diuersis ligeis dictæ Dom. Reginæ, pro vera & legitima moneta huius regni sui Angliæ apud W. prædictam in comitatu prædicto falsò & proditoriè exposuit & vtterauit. In magnam subditorum dict. Dom. nostrę deceptionem, ac contra pacem dictæ Dom. nostræ, coronam, & dignitatem suam, necnon contra formam diuersorum statutorum in eiusmodi casu prouisorum & editorum. Et quod M. (vxor T. A. de W. prædicta in dicto comitatu generosi) sciens prænominatum T. S. proditionem prædictam modo & forma prædictis feciſſe, & commisisse, eundem tamen T. S. postea, *viz.* secundo die Februarij, Anno supradicto apud W. prædictam in comitatu prædicto receptauit, & comfortauit, ac proditionem prædictam concelauit, contra pacem dictæ Dominæ Reginæ nunc, coronam, & dignitatem suam.

For petite Treason in a seruant, and felonie in the procurer thereof.

IVratores pro Domina Regina præsentant, quod A. B. de C. in comitatu prædict. **Glouer**, nuper seruiens B. D. de C.. prædicta in dicto com. **Glouer**, decimo die Septembris, Anno regni dictæ Dom. nostræ Eliz. Dei gratia Angliæ, Fran. & Hyberniæ Reginę, fidei defensoris, &c. Tricesimo, in domo mansionali prædicti B. D. apud C. prædict. in com. prædict. vi & armis, viz. cum gladio & pugione districtis ad valenciam x.

ſolidorum (quos idem A. B. tunc & ibidem in manibus ſuis tenuit) in prænominatum B. D. tunc magiſtrum ſuum tunc & ibidem in pace dei & dict. dom. Reg. exiſtentem, voluntariè & ex malitia ſua præcogitata inſultum fecit, & eundem B. D. tum magiſtrum ſuum, adtunc ibidem cum dict. gladio felonicè & proditoriè ſuper caput ſuum fortiter & valide percuſſit, ita quod dicto ictu, caput ipſius B. D. tunc magiſtri ſui tunc ibidem in duas partes fidit, dans ei plagam mortalem: vnde corpus dict. B. D. immediatè ibidem ad terram cecidit, & dictus B. D. inſtanter ibidem de plaga prædict. mortuus eſt. Et ſic præfatus A. B. apud C. prædict. ex malitia ſua præcogitata, eundem B. D. magiſtrum ſuum præd. modo & forma prædictis, voluntariè, nequiter, felonicè, & proditoriè interfecit, contra pacem dict. Dom. noſtræ Reginæ nunc, coronam, & dignitatem ſuas. Et quod quidam I. S. dè C. prædicta in dicto com. **Glouer**, ante proditionem prædict. (per præfatum A. B. ſic vt præfertur voluntariè perpetratam & commiſſam) viz. ſexto die Sept. Anno ſupradicto, eundem A. B. apud C. prædictam in comitatu prędicto, ad proditionem prædictam in forma prædicta perpetrandam & committendam, felonicè conſuluit, excitauit, & procurauit, contra pacem dictæ Dominæ noſtræ Reginæ nunc, ac contra coronam, & dignitatem ſuam.

For murder of a Baſtard childe againſt the mother and midwife (as principals) and againſt the reputed father, as acceſſorie before, and againſt others as acceſſories after.

IVratores pro Domina Regina præſentant, quod H. M. nuper de K. in com. prædicto vidua, grauida exiſtens cum quadam infante viua, 24. die Maij, Anno regni dict. Dom. noſtræ Elizab. Dei gratia Angliæ, Frãcię, & Hybernię Reginæ, fidei defenſoris, &c. Secundo, apud K. prædict. in comitatu prædicto, Dei prouidentia parturijt, & peperit vnam prolem femellam viuam: poſteaq;

poſteaq; quædam Iana S nuper de W. in dicto comitatu vidua, apud K. prædictam in comitatu prædicto, vi & armis, ex malitia ſua præcogitata (dicto 24. die Maij anno ſupradicto, circa horam vndecimam ante meridiem eiuſdem diei) per conſilium, mandatum, & procurationem prædictæ H. M. ac in præſentia ipſius H. M. in prędictam prolem femellam viuam inſultum fecit, & cum quodam cultello (ad valentiam vnius denarij) quem eadem Iana tunc in manu ſua dextra tenuit, guttur ipſius prolis femellæ adtunc & ibidem felonicè ſcidit, dans eidem proli femellæ quandam plagam mortalem in gutture ſuo prædicto, de qua quidem plaga mortali proles femella prædicta apud K. prædict. in com prædicto, adtunc & ibidem inſtanter obijt. Et quod prædicta H. M. adtunc & ibidem felonicè fuit præſens, comfortans, & auxilians ad prædict prolem femellam in forma prædicta interficiendam. Et ſic præfatæ H. M. & Iana, prædictam prolem femellam ex malitia ſua præcogitata, felonicè, & voluntariè interfecerunt, & murdraverunt, contra pacem dictæ D. Reg. coronam, & dignitatem ſuas. Et inſuper Iuratores prædicti præſentant pro dicta Dom. Regina, quod Georgius P. nuper de K. prædicta in dicto comitatu Yeoman, 19. die Maij, Anno regni dictæ Dominæ Reginæ ſecundo, ac diuerſis alijs diebus & vicibus ante feloniam & murdrum prædictum in forma prędicta perpetrat. apud K. prædictam in comitatu prædicto malitiosè & felonicè conſuluit, mandauit, procurauit & abettauit, prædictam H. M. ad prædictum murdrum voluntarium faciendum, ac ad interficiendum & murdrandum dictam prolem femellam, contra pacem dictæ Dom. Reginæ: Et vlteriùs, quod O. P. & A. B. de K. prædicta in comitatu prædicto **Spinsters**, poſt murdrum & feloniam prædictam in forma prædicta facta, ſcientes præfatas A. M. & Ianam S. feloniam & murdrum prædicta in forma prædicta feciſſe & perpetraſſe, ipſam tamen H. M. apud K. prædictam in comitatu prædicto (27. die

dicti menſis Maij, anno ſupradicto) felonicè receptauerunt, & comfortauerunt, contra pacem dictæ Dom. Reginæ nunc, coronam, & dignitatem ſuam.

For wilfull poyſoning.

IVratores pro Domina Regina præſentant, quod T. H. de C. in comitatu prædicto Yeoman, ſecundo die Decembris, Anno regni dictæ Dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginę, fidei defenſoris, &c. viceſimo quarto, apud C. prædictam in comitatu prædicto, in domo manſionali ibidem cuiuſdam W. B. nuper de C. prædicta in dicto comitatu Yeoman, ex malitia ſua prępenſa & præcogitata, voluntariè & felonicè, porrexit, ac dedit in catillo quodam eidem W. B. ad edendum, quædam olera (Anglicè vocata Potage) ex cicuta venenoſiſſima, & alijs herbis virulentis, confecta & compoſita, quæ quidem olera prædictus W. B. tunc ibidem cum cochleari (quod in manu ſua dextra tenuit) comedit, vnde prædictus W. B. ſtatim poſtea ægrotabat, ac à prædicto 2. die, An. ſupradict. in dicta domo ſua apud C. prędictam languebat, vſq; ſextum diem dicti menſis Decembris, Anno ſupradicto, quo quidem ſexto die, Anno ſupradicto, prædictus W. B. ex dicto eſu olerum prædictorum, in dicta domo ſua apud C. prædictam in dicto comitatu interijt. Et ſic Iuratores prædicti præſentant, quod prędictus T. H. prænominatum W. B. apud C. prædictam in comitatu prædicto, modo & forma ſupradictis, ex malitia ſua præcogitata, voluntariè & felonicè veneno prædicto interfecit ac murdrauit, contra pacem dictæ dom Reg. nunc, ac contra formam ſtatuti in parliamento dom. Edwardi nuper regis Angliæ ſexti (tento apud Weſtm. in comitatu Middleſex, Anno regni ſui primo) in hujuſmodi caſu prouiſi ac editi.

Fo

Precedents.

For a murder committed by two.

IVratores pro domina Regina præſentant, quod A. B. nuper de C. in dicto comitatu **Blackſmith**, & D.E. de C. prædicta in comitatu prædicto **Butcher**, ſeptimo die Septembris, Anno regni dictæ Dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, vi & armis, ex malitia ſua præmeditata, in quendam F. G. nuper de B. in dicto comitatu **Yeoman**, apud B. prędictam in comitatu prædicto, in quodam loco ibidem (vulgariter nuncupato **the Bowling place**) ad tunc & ibidem in pace Dei, & dictæ Dominæ Reginæ exiſtentem, inſultum fecerunt, & præfatus A. B. cum quodam gladio diſtricto, ad valentiam 5. ſolid. quem ipſe in manu ſua dextra ad tunc & ibidem tenuit, ipſum F. G. ſuper ſinciput ſuum voluntariè & felonicè tunc ibidem percuſſit, & eo ipſo ictu dedit eidem F. G. quandam plagam mortalem, in longitudine trium pollicium, & in profunditate quinq; pollicium & dimid. de qua quidem mortali plaga, prædict. F. G. tunc ibidem inſtanter & immediatè obijt. Et vlteriùs, quod prędictus D. E. cum quodam Baculo ad valentiam vnius oboli (quem ipſe in manibus ſuis ad tunc ibidem tenuit) ipſum F. G. ad tunc & ibidem voluntariè & felonicè percuſſit ſuper caput ſuum, dans eidem F. G. vnam aliam plagam mortalem in dicto ſuo capite, in longitudine trium pollicium, & in profunditate duorum pollicium, vnde idem F. G. de plaga vltimè prædicta obijſſet, ſi non obijſſet de ictu illo priore prædicto, quem prædictus A. B. ei primò dederat. Et ſic Iuratores prædicti dicunt, quod prænominati A. B & D. E. dicto ſeptimo die Septembris Anno ſupradicto, apud B prędictam in prædicto loco (vocato **the Bowling place**) prędictum F. G. modo & forma prædictis, ex malitia ſua præcogitata, voluntariè, & felonicè interfecerunt & murdraverunt, contra pacem dictæ Dominæ Reginæ, ac contra

coronam & dignitatem ſuam.

For killing a man by Chance-medley.

IVratores præſentant pro domina Regina, quod A. B. de C. in dicto comitatu **Sowgelder**, decimo ſexto die Septembris, Anno regni dictæ dominæ noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, apud C. prædictam in comitatu prædicto, quendam E. F. nuper de C. prædicta in comitatu prædicto **weauer** (cui tunc ibidem fortuitò & caſu obuiam venit) contumelioſis verbis laceſſiuit, ac in eundem E. F. tunc & ibidem, in pace Dei ac dictæ Dom. Reginæ exiſtentem, vi & armis inſultum fecit, & ventrem dicti E. F. tunc & ibidem cum baculo longo, cuſpide præacuta capitato (Anglicè vocato **a long ſharpe piked ſtaffe**) quem idem A. B. tunc ibidem in manibus ſuis tenuit, felonicè pupugit & perfodit, dans eidem E. F. vulnus mortale in dicto ventre ſuo, latitudinis vnius pollicis, & profunditatis ſeptem pollicium, de quo quidem mortali vulnere idem E. F. tunc ibidem inſtanter obijt ac interijt: contra pacem dictæ dominæ Reginæ nunc, & contra coronam & dignitatem ſuas.

For pulling out of a mans eyes.

IVratores pro Domina Regina præſentant, quod A. B. de C. in dicto comitatu **Tinker**, nono die Septembris, Anno regni dict. Dom. noſtræ Elizabethæ, Dei gratia, Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, in quodam loco apud C. prædictam in comitatu prędicto (vocato **le Dene**) vi & armis in quendam D. E. de C. prædicta in comitatu prædicto **Yeoman**, in pace dictæ Dominæ Reginæ tunc ibidem exiſtentem, & inſultum fecit, ac tunc & ibidem ex malitia ſua præcogitata, digitis & vnguibus digitorum ipſius A. B. oculos ipſius D. E. felonicè effodit

effodit ac eruit,contra pacem dictæ Dom. Reginæ noſtræ,coronam & dignitatem ſuam,ac contra formam cuiuſdam Statuti in Parliamento domini Regis Henrici olim Regis Angliæ,4. (tento apud Weſtmonaſterium in comitatu Middleſex, Anno regni ſui quinto) in huiuſmodi caſu prouiſi & editi.

For the Rape of a woman child,vnder ten yeeres of age.

IVratores pro domina Regina præſentant,quod G.D. de B.in comitatu prædicto Waterman,tertio die Iulij Anno regni dict. dom. noſtræ Elizabethæ,Dei gratia Angliæ,Franciæ,& Hyberniæ Reginæ, fidei defenſoris,&c. Triceſimo,apud B.prædictam in dicto comitatu (in domo manſionali ibidem cuiuſdam A.S. Hoſteler) vi & armis in quandam M.N.de B. prædicta in dicto comitatu puellam, infra ætatem decem annorum tunc exiſtentem,inſultum fecit,ac tunc & ibidem, eandem M.N.felonicè ac carnaliter cognouit, ac eadē M. N.nequiter abuſus eſt,contra pacem dict.dom.Reginæ nunc,ac contra formam Statuti in Parliamento dictæ dom. Reginæ nunc (tento apud Weſtm. in comitatu Middleſex,Anno dicti regni ſui decimo octauo) in huiuſmodi caſu prouiſi ac editi.

For the Rape of a Maid,aboue ten yeeres olde.

IVratores præſentant pro domina Regina, quod B.C. de E.in dicto comitatu Tauerner,quinto die Octobris,Anno regni dictæ dom. noſtræ Elizabethæ, dei gratia Angliæ,Francię & Hyberniæ Reginæ, fidei defenſoris,&c.Triceſimo,apud E. prædict. in dicto comitatu,in quodam ibidem loco (vocato le Bowꝛe)vi & armis in quandam A.K.de E.prædicta in comitatu prædicto virginem,ætatis ſex decem annorum,tunc ibidem in pace Dei & dictæ dom.Reginæ exiſtentem,inſultum fecit,ac tunc & ibidem eandem A. contra voluntatem

ipſius

ipſius A. felonicè rapuit,& carnaliter cognouit, contra pacem dict. dom. Regi. nunc,ac contra formam cuiuſdam Statuti in parliamento domini Edwardi olim Regis Angliæ primi,tento apud Weſtmonaſterium in comitatu Middleſex,Anno regni ſui tertio decimo, in huiuſmodi caſu prouiſi & editi.

For taking away a Widow (againſt her will) that hath lands.

IVratores præſentant pro domina Regina, quod A.B. de C. in dicto comitatu Syngingman,ſecundo die Aprilis,Anno regni dict.dom. noſtræ Elizabethæ, Dei gratia Angliæ,Franciæ,& Hyberniæ Regi. fidei defenſoris,&c.Triceſimo, vi & armis in domum manſionalem cuiuſdam H.B.de C. prædicta in comitatu prædict. viduæ,infra parochiam de C. prædicta in comitatu prędicto intrauit,(quæ quidem H.B. tum ſeſita fuit in dominico ſuo vt de feodo,de & in diuerſis terris & tenementis in C. prædicta in comi. prædicto, clari annui valoris decem librarum vltra omnes repriſas exiſtentibus) ac immediatè poſtea,viz. dicto ſecundo die Aprilis anno ſupradicto, idem A.B. prædictam H. B. tunc ibidem in dicta domo ſua in pace Dei ac dict. domi. Regi. exiſtentem, ex dicta domo ſua manſionali contra voluntatem ipſius H. B. illegitimè ac felonicè extraxit,eripuit,& abduxit,ac eandem H.B.poſtea (ſcilicet tertio die dicti menſis Aprilis, Anno ſupradicto) in Eccleſia Parochiali de C. prædicta in Comitatu prædicto,cepit in vxorem ſuam: vbi idem A. B. dicto tempore extractionis & abductionis prædict. non clamauit, nec clamare potuit, eandem H. B. tanquam Wardam ſuam, aut tanquam natiuam ſuam: In magnam pacis dict. Dominæ Reginæ nunc perturbationem,ac contra formam cuiuſdam Statuti in parliamento domini Henrici nuper Regis Angliæ ſeptimi, tento Anno regni ſui tertio, in huiuſmodi caſu prouiſi ac editi.

For

For Buggerie.

IVratores pro domina Regina præſentant, quod A. B. nuper de C. in dicto comitatu clericus (& alienigena in ciuitate Romana Italiæ natus) decimo die Martij, vi & armis, apud C. prædict. in comitatu prædicto, Anno regni Dominæ noſtræ Elizabethæ, Dei gratia Angliç, Franciæ, & Hyberniæ Reginæ, fidei defenſoris &c. Triceſimo, in quendam I.S. de C. prædicta in dicto comitatu puerum maſculum (ætatis non ampliùs quindecim annorum, ac tunc ibidem in quodam loco vocato **le Arbze**, in pace Dei & dict. Dominæ Reginæ exiſtentem) inſultum fecit, ac cum dicto I.S. puero prædict. ſceleratiſſimè, felonicè, ac cõtra naturę ordinem, tunc ibidem rem habuit veneream, dictumq; puerum carnaliter cognouit, ac ſic cum eodem puero peccatum illud horribile, ac Zodomiticum (anglicè vocatum **Buggerie**) ad tunc ibidem felonicè commiſit, ac perpetrauit, contra pacem dict. Dom. Regi. noſtr. ac contra formam ſtatuti in huiuſmodi caſu antehac prouiſi ac editi.

For Burghlarie of a dwelling houſe.

IVratores pro domina Regina præſentant, quod T.S. de W in dicto comitatu **Taylor**, quarto die menſis Februarij, Anno regni dict. dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hybernię Reginæ, fidei defenſoris &c. viceſimo nono, vi & armis domum manſionalem cuiuſdam N.G. de W. prædicta in dicto comitatu **Butcher**, noctanter, viz. (inter horas decimam & vndecimam poſt meridiem eiuſdem diei) quadam Ioanna vxore ipſius N.G. tunc in eadem domo in pace Dei, & dict Dominæ Reginæ exiſtente, felonicè & burghlariter fregit & intrauit, & viginti libras legalis monetæ Angliæ de bonis prędict. N.G. in quodam abaco in dicta domo exiſtentes inuentas, tunc & ibidem felonicè cepit & aſportauit, contra pacem dict. Dom.

Reginæ

Reginæ nunc, coronam, & dignitatem ſuam.

For burning of a houſe by day.

IVratores pro domina Regina præſentant, quod A.B. nuper de C. in comitatu prædicto victualler, octauo die menſis Iulij, Anno regni dictæ dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris &c. Triceſimo, ad domum manſionalem E.F. de C. prædicta in comitatu prædict. generoſi, in C. prædict. in dict. comitatu exiſtentem, vi & armis, inter horas ſextam & ſeptimam ante meridiem eiuſdem diei acceſſit, & cum vna libra pulueris tormentarij ad valentiam 12. denar. & face quadam ignita, quæ dictus A.B. tunc ibidem in manibus ſuis tenuit, ignem in quodam faſciculo ſtraminis tunc in dicta domo exiſtentis, ex malitia ſua precogitata felonicè accendit, vnde eadem domus tunc ibidem totaliter cremata & combuſta fuit (eodem E.F. tunc in pace dictæ dom. Reginæ in dicta domo ſua exiſtente) Et ſic prædictus A. B. dicto octauo die Iulij, Anno ſupradicto, apud C. prædictam, domum manſionalem prædicti E.F. prædictam, modo & forma prædictis, voluntariè ex dicta malitia ſua præcogitata, & felonicè incendit & combuſſit: contra pacem dictæ dom. Reginæ noſtræ, ac coronam, & dignitatem ſuas.

For a robberie in the highway.

INquiratur pro domina Regina. Si A. B. de C. in dicto comitatu Mariner, ſexto die menſis Octobris, Anno regni dictæ dom. noſtrę Elizabethæ, dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris &c. Triceſimo, vi & armis, viz. cum gladio, & pugione (ad valentiam 10. ſolid.) diſtrictis, inter horas ſeptimam & octauam ante meridiem eiuſdem diei, in alta via Regia iuxta quendam locum (vocatum Gads hill) infra parochiam de F. in comitatu prædict. in, & ſuper quendam I.S. de B. in comitatu prædicto, Petite-Chapman,

man, tunc & ibidem in pace Dei, ac dictæ dom. Reginæ existentem insultum fecit, & ipsum I. S. tunc ibidem cum dicto gladio percussit & vulnerauit, & 20. solidos legalis monetę Anglię numeratæ in crumena ipsius I.S. existentes, de bonis & catallis prædicti I.S. ad tunc & ibidem inuentos, à persona ipsius I.S. tunc & ibidem violenter & felonicè cepit & asportauit, in magnum p[re]dicti I.S. terrorem, ac contra pacem dictæ dom. Reginę, coronam, & dignitatem suas.

For the taking of a purse priuilie from the person.

IVratores pro domina Regina præsentant, quod I.S. nuper de A. in dicto comitatu **Taylor**, sexto die Iulij, Anno regni dict. dom. nost. Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reg. fidei defensoris, &c. Triceſimo, apud A. prædict. in comitatu prædicto, in quodam loco ibidem, (vocato **the Elmes**) vi & armis in quendam R.M. de A. prædicta in comitatu prædict. **Grocer**, insultum fecit, & viginti solid. in pecunijs numeratis in crumena ipsius R.M. tunc ibidem existentes inuentas, de prædicta crumena ipsius R.M tunc & ibidem à persona ipsius R.M. (clam & insciente ipso R.M) felonicè cepit & asportauit, contra pacem dictæ dom. Reginæ. ac contra coronam, & dignitatem suas.

Against the stealer of Horse, and his after accessorie.

IVratores pro Domina Regina præsentant, quod A.B. nuper de C. in dicto comitatu **Gelder**, viceſimo nono die Augusti, Anno regni dict. Dom. nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reg. fidei defensoris, &c. Triceſimo, vi & armis, quoddam stabulum in domo mansionali cuiusdam I.S. infra parochiam de C. prædict. in comitatu prædicto existens fregit, ac intrauit, & vnum equum spadonem (Anglicè vocatum a **Gelding**) coloris albi, pretij 6. librarum, &

vnam

vnam equam coloris nigri, pretij 30. ſolid. de bonis & catallis ipſius I.S. tunc ibidem exiſtentes inuentos, felonicè cepit & abduxit, contra pacem dict. Dom. Reginæ, coronam, & dignitatem ſuas. Et quod K. H. nuper de C. prædicta in comitatu prædicto **Horſecourſer**, ſciens præfatum A.B. felo niam prædict. apud C. prædict. modo & forma prædictis, feciſſe & perpetraſſe, eundem tamen A.B apud C. prædict in com. prædicto, tricesimo die dicti menſis Auguſti, Anno ſupradicto felonicè recepit, & hoſpitio excepit, poſt feloniam prædictam ſic per ipſum A.B. vt præfertur factam & commiſſam: contra pacem dictæ dom. noſtræ Reginæ nunc, & contra coronam, ac regiam dignitatem ſuas.

Againſt a ſeruant that ſtealeth his Maſters goods, committed to his keeping.

IVratores præſentant pro domina Regina, quod cùm A.B. de C. in dicto comitatu **Mercer**, viceſimo die Septembris, Anno regni Dominæ noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. tricesimo, in domo manſionali ipſius A. B. apud C. prædictam in comitatu prædict. deliberaſſet cuidam E.F. de C. prædicta in dict. comitatu **Mercer**, tunc ſeruienti ipſius A.B. pro vno Anno integro retento, ac ætatis nouemdecem annorum exiſtenti, decem libras in pecunijs numeratis de bonis ipſius A.B. ea intentione, vt idem E.F. eaſdem ſaluò cuſtodiret, ad vſum prædicti A.B. tunc magiſtri ſui: idem E.F. dicto viceſimo die Septembris Anno ſupradicto (apprenticius dicti A.B tunc non exiſtens) apud C. prædict. in comitatu prædicto, à dicto magiſtro ſuo, vnà cum prædict. decem libris dicti A.B. tunc magiſtri ſui, malitiosè & felonicè diſceſſit, abijt, & aufugit, ea intentione, ad furandum dictas decem libras, contra fiduciam in eo per præfatum A.B. tunc magiſtrum ſuum repoſitam & collocatam, & ad inde dictum A.B. magiſtrum ſuum prædictum defraudandum: contra pacem dictæ Dom. Reginæ, ac

contra

contra formam diuerſorum Statutorum huius regni Angliæ in huiuſmodi caſu, prouiſorum & editorum.

Againſt the ſtealer of a Cowe, and his Acceſſorie before.

IVratores pro Domina Regina præſentant, quod A. B. de C. in dicto comitatu **Shoomaker**, primo die Iulij, Anno regni dict. Dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, in quodam loco infra parochiam de C. prædicta in comitatu prædicto (vocato **the Cowe paſture**) vi & armis, clauſum cuiuſdam I. S. de D. in comitatu prædicto **yeoman**, fregit & intrauit, & quandam vaccam (coloris nigri, pretij 40. ſolidorum) de bonis & cattallis prædicti I. S. tunc ibidem exiſtentem inuentam, felonicè cepit, ſuratus eſt, & abduxit, contra pacem dict. Dominæ Reginæ nunc, coronam & dignitatem ſuas. Et quod quidam G. H. de C. prædicta in dicto comitatu **Butcher**, ante felonian prædictam, ſcilicet eodem primo die .ulij anno Triceſimo ſupradicto, eundem A. B. apud C. prædictam in comitatu prædicto, ad feloniam prædictam faciendam & perpetrandam, malitiosè & felonicè excitauit, perſuaſit, & procurauit, contra pacem dict. Dom. Reginæ, coronam, & dignitatem ſuam.

For hunting by night in a parke, and for concealing the ſame.

IVratores pro Domina Regina præſentant, quod ſecundo die Auguſti, Anno regni Dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, inter horas decimam & vndecimam in nocte eiuſdem diei A. B. de C. in dicto comitatu generoſus, D. E. & G. H. de F. in dicto comitatu **Huſbandmen**, aggregatis ſibi nonnullis alijs malefactoribus ignotis, ad numerum ſex perſonarum, vi & armis, videlicet, prælongis baculis, arcuba-

arcubaliſtis,& ſagittis,clauſum & parcum dictæ Dom. Reginæ noſtræ apud O.in dict. comitatu fregerunt,& intrauerunt,& vnum par damarum dictæ Dom. Regi. (Anglicè vocat. a brace of Bucks) in dicto parco adtunc & ibidem depaſcent. inuent. illegitimè venati ſunt, ac cum duobus ſagittis ex dictis arcubaliſtis emiſſis,& ſagittatis,adtunc & ibidem occiderunt, & aſportauerunt, contra pacem dictæ Dominæ Reginæ: Ac quod poſtea die ſequente, videlicet tertio die dicti menſis Auguſti, Anno ſupra dicto,T. S. tunc parcarius dict. Dom. Reginæ dicti ſui parci de O. Prædicta in comitatu prædicto, informauit apud C. prædictam T. W. vnum luſticiariorum pacis dictæ Dom. Reginæ in comitatu prædicto,de illicita venatione prædicta modo & forma prædictis facta, qui quidem luſticiarius ſuperinde warrantum ſuum in ſcriptis,poſtea,videlicet, dicto tertio die Auguſti, Anno ſupradicto direxit cuidam K. M. vni Conſtabulariorum Hundredi de S.in comitatu prædicto (in quo quidem Hundredo ſitæ ſunt prædict. villæ de C.& F.) eo tenore,vt idem Conſtabularius arreſtaret prænominatos A.B D.E. & G.H. ac eoſdem coram eodem Iuſticiario duceret & haberet, ad eos de dicta illicita venatione examinandum. Et quod dicti A.B.D.E.& G.H poſtea,ſcilicet dicto tertio die Auguſti Anno ſupradicto, coram dicto Iuſticiario apud C. prædictam in Comitatu prædicto per Conſtabularium prædictum virtute dicti warranti adducti, ac per eundem Iuſticiarium per ſuam diſcretionem de dicta illicita venatione,& de factoribus in ea parte examinati exiſtentes, prædictam tamen venationem voluntariè & felonicè concelauerunt, & eorum quilibet voluntariè & felonicè concelauit: Contra pacem dictæ Dominæ Reginæ,coronam, & dignitatem ſuas, necnon contra formam cuiuſdam ſtatuti in parliamento Domini Henrici nuper Regis Angliæ ſeptimi tento, Anno regni ſui primo,in huiuſmodi caſu prouiſi & editi.

For

For writing of ſlaunderous matter againſt the Queene.

IVratores pro domina Regina præſentant, quod A. B. nuper de C. in comitatu prædicto Clericus, viceſimo quinto die Iulij, Anno regni dict. Dom. noſtr. Elizabethæ, Dei gratia Angliæ, Franciæ & Hyberniæ Regi. fidei defenſoris &c. Triceſimo, apud C. in comitatu prædicto, conſultè, & deliberatè, cum malitioſa intentione, & felonicè quoddam ſcriptum Anglicè edidit & publicauit, continens (inter alia) hanc falſam, ſeditioſam & ſcandaloſam materiam, ad defamationem Maieſtatis dict. Dom. Reginæ noſtræ nunc, viz. (**reciting the ſeditious wordes thereof**) contra pacem dict. Dom. Regi. noſtræ, & regalem maieſtatem ſuam, (cui ne in cogitatione quidem detrahere licet) ac contra formam cuiuſdam ſtatuti in parliamento dictæ Dom. Regi. noſtræ nunc tento apud Weſtmin. in comitatu Middleſex An. regni ſui viceſimo tertio, in huiuſmodi caſu prouiſi ac editi.

For a wilfull Reſcuſſe of one impriſoned in the ſtockes for felonie.

IVratores pro Domina Regina præſentant, quod viceſimo die Iunij, Anno regni dict. dom. noſtr. Elizab. Dei gratia Angliæ, Franciæ, & Hybernię Regi. fidei defenſoris &c. Triceſimo, quidam A. B. nuper de C. in dicto comitatu **Glouer**, apud C. prædictam in Comitatu prædicto, captus eſt & arreſtatus per E. F. de C. prędicta in comitatu prædicto **yeoman**, pro ſuſpicione cuiuſdam feloniæ, viz. vnius vaccę ipſius E. F. per præfatum A. B. felonicè (vt idem E. F. tunc aſſerebat) captæ & abductę, & quod idem A. B. immediatè poſtea traditus eſt per præfatum E. F. cuidam H. M. tunc conſtabulario hundredi de N. in quo ſita eſt villa de C. prædict. qui quidem conſtabularius apud C. prædict. in comitatu prædicto, poſtea, viz. dicto viceſimo

die Iunij Anno Tricesimo supradicto, eundem A. B. in prisona in cippis ibidem posuit, ad eum saluò ibidem custodiendum, donec idem Constabularius parare posset auxilium ad ducendum eundem A.B. coram aliquo Iusticiariorum pacis dictæ dominæ Reginæ in comitatu prædicto examinandum: Ac quod postea, (scilicet dicto vicesimo die anno supradicto) quidam G.L. de C. prædicta in comitatu prædicto **Glouer**, apud C. prædictam in dicto comitatu, vi & armis cippos prædictos effregit: ac eundem A.B. tunc ibidem existentem ex eisdem custodia, prisona, & cippis felonicè cepit, eripuit & rescussit, ac ad largum ire & euadere permisit, contra pacem dictæ Dominæ Reginæ, coronam, & dignitatem suas.

For the breaking of prison.

INquiratur pro domina Regina, si W. H. de C. in comitatu prædicto **yeoman**, vnus Constabulariorum dict. Dominæ Reginæ Hundredi sui de T. in comitatu prædicto (in quo quidem Hundredo sita est villa de C. prædicta) quendam R. B. nuper de C. prædicta in comitatu prędicto **Tailor**, vicesimo die Septembris, Anno regni dictę Dominę nostrę Elizabethę, Dei gratia Anglię, Francię & Hybernię Reginę, fidei defensoris, &c. Tricesimo, apud C. prędictam in dicto comitatu, pro suspicione cuiusdam feloniæ (viz pro morte cuiusdam M. N. apud H. in comitatu prædicto felonicè interfecti) cepit & arrestauit: Et ea de causa idem R. B. sub custodia dicti W. H. Constabularij, in prisona dictæ Dominæ Reginæ apud C. prædictam in comitatu prędicto, postea, scilicet dicto vicesimo die Septembris Anno supradicto fortiter, & duriter detentus fuerit, Ac idem R. B. tunc ibidem sic detentus, postea, (videlicet, dictis die & anno) apud C. prædictam in Comitatu prædicto, vi & armis prædictam prisonam ibidem felonicè fregit, ac extra custodiam dicti Constabularij tunc ibidem, contra eius voluntatem felonicè euasit: contra pacem

pacem dict. Dom. Reginæ noſtr. nunc, coronam & dignitatem ſuas, necnon contra formam ſtatuti in huiuſmodi caſu prouiſi ac editi.]

For a voluntarie Eſcape of a Felon, out of the Gaole.

IVratores pro Domina Regina præſentant, quod vbi quidam A. B. nuper de C. in dicto comitatu Shoomaker, ſexto die Maij, An. regni dom. noſtræ Elizabeth. Dei gratia Angliæ, Franciæ, & Hyberniæ Regi. fidei defenſoris, &c. Iricesimo, apud C. prædict. in com. prædict. pro ſuſpicione cuiuſdam feloniæ (viz. vnius Equi, coloris albi, pretij 40. ſolid. felonicè per eundem A. B. vt dicebatur, capti & abducti) arreſtatus eſt & captus, & coram T. F. vno Iuſticiariorum dictæ Dom. Regi. ad pacem in dicto comitatu conſeruandam aſſignatorum ductus, & ſuper inde poſtea, viz. dictis die, anno, & loco, cuidam B. D, in comitatu prædicto yeoman, cuſtodi Gaolæ dictæ Dom. Reginæ apud M. in dicto comitatu exiſtenti (ſub cuſtodia I. F. armigeri, ad tunc vicecomitis comitatus prædicti, & cuſtodis Gaolæ prædictæ) per quoddam præceptum de *Mittimus* dicti T. F. Iuſticiarij traditus eſt & commiſſus, ad ſaluò & ſecurè cuſtodiendum in Gaola prædict. donec idem A. B. inde foret legitimo modo deliberatus: præfatus tamen I. F. (tunc vicecomes) poſtea, viz. ſeptimo die dicti menſis Maij An. ſupradicto, apud M. prædictam in comitatu prædicto, prefatum A. B. (ad tunc & ibidem in dictis gaola & cuſtodia exiſtentem) à prædictis cuſtodia & gaola, ad tunc & ibidem euadere & ad largum ire voluntarie, & felonicè permiſis, contra pacem dict. Dom. Reginę, coronam, & dignitatem ſuam.

Kane.

And for a negligent eſcape, the vnderlined words may be changed thus: pro defectu bonæ & diligentis cuſtodiæ, euadere, & ad largum quò voluit ire, negligenter permiſit, contra pacem, &c. **As before.**

For ſelling a Horſe to a Scottiſhman, to be conueied into Scotland.

IVratores pro Domina Regina præſentant, quod quarto die menſis Iulij, Anno regni dict. Dom. noſtr. Elizabeth. Dei gratia Angliæ, Franciæ, & Hyberniæ Regi. fidei defenſoris, &c. Triceſimo, A. B. de C. in dicto Comitatu **Blacke Smith**, apud quendam locum vocatum **le Ferrie**, (in C. prædicta in Comitatu prædicto exiſtentem) vnum equum caſtratum (Anglicè dictum a **Gelding**) coloris albi, & pretij quatuor librarum legalis monetæ Angliæ, cuidam A. D. generoſo (natione homine Scoto) pro ſumma quatuor librarum in pecunijs numeratis prædicto A. B. per præfatum A. D. tunc ibidem ſolutis, voluntariè vendidit. Ac tunc ibidem eundem equum eidem A. D. ea intentione ad equum prędictum in regnum Scotiæ abducendum & conueiandum, (abſque aliqua ſpeciali licentia dict. Dom. Regi. noſtræ nunc, per literas ſuas patentes ſub magno Sigillo Anglię ad idem ſic faciendum inde priùs abtenta) voluntariè & felonicè tradidit ac deliberauit, contra pacem dict. Dom. Regi. noſt. nunc, ac in eneruationem huius regni ſui Angliæ, necnon contra formam diuerſorum ſtatutorum in huiuſmodi caſu præantea prouiſorum & editorum.

Vpon a Rebellious Aſſemblie.

IVratores pro Domina Regina præſentant, Quod primo die menſis Octobris, Anno regni Dom. noſtr. Elizabeth. Dei gratia Angliæ, Franciæ, & Hybernię Regin. fidei defenſoris, &c. Triceſimo, A. B. C. D. E. F. **And ſo reciting thirteene or foureteene perſons in all, with their additions of occupations and dwellings**, apud quendam locum infra parochiam de O. in comitatu prædicto (Anglicè vocatum **le old Court**) inter horas decimam & vndeci-

mam

mam ante meridiem eiuſdem diei, vi & armis, tam inuaſiuis, quàm defenſiuis, videlicet, gladijs, pugionibus, baculis, arcubus, ſagittis, tunicis ferreis, & tormentis, ſeipſos congregauerunt & aſſemblauerunt: Ac tunc ibidem intenderunt, conati ſunt, & practicauerunt, vi & armis, illegitimè, & ex authoritate ſua propria, ſecare, & prorſus euertere, proſternere ac deſtruere quoddam caput vnius aquæ ductus (Anglicè vocatum a conduit head) tunc ibidem in fundo cuiuſdam R. S. de O. prędicta in comitatu prędicto generoſi exiſtens, & curſum aquæ in ipſo habens, ea intentione, vt idem caput aquæ ductus prędicti ex tunc apertum & vacuum remaneret ac iaceret: Et vlterius; quod ſuper querimonia inde facta coram T. W. vno iuſticiariorum pacis dict. Dom. Regi. in Comitatu prædicto, omnes & ſinguli prædicti A.B. C. D. E. F. &c. tunc & ibidem per eundem Iuſticiarium requiſiti ſunt ac iuſſi (per proclamationē in nomine dict. dom. Regi. tunc ibidem per eum palam factam) ad habitationes, loca, & domos ſuas (vnde venerant) ſe inde in pacifico modo retrahere, retirare, diſcedere & reuerti: quæ quidem proclamatio tunc ibidem modo & forma ſequentibus habita & facta eſt, viz. prædictus T. W. Iuſticiarius tunc ibidem fecit alta voce vnum Oyes, ac tunc ibidem immediatè hęc verba anglica ſequentia palam, alta voce pronnuciauit, dicens ſcilicet, *The Queene our Soueraigne Ladie chargeth, and commaundeth all perſons (being aſſembled) immediately to diſperſe themſelues, and peaceably to depart to their habitations, or to their lawfull buſineſſe vpon the paines conteyned in the Acte lately made againſt vnlawfull and rebellious aſſemblies: And God ſaue the Queene.* Et vlterius, Iuratores prædicti dicunt, quod non obſtante dicta proclamatione modo & forma prędictis per præfatum Iuſtici-

arium tunc ibidem facta & habita, ijdem tamen omnes & singuli prædicti A.B.C.D.E.F. &c. in dicto loco vocato **le old Court** infra parochiam de O. prædicta in dicto comitatu per spacium duarum horarum, immediatè & continuè post dictam proclamationem sic vt præfertur factam & habitam sequentium, seditiosè & felonicè insimul remanserunt & continuauerunt, in magnum dict. Dom. Reginæ contemptum, ac contra pacem, coronam, & dignitatem suas, necnon contra formam diuersorum Statutorum in huiusmodi casu prouisorum & editorum.

For vnlawfull purueiance.

IVratores pro Domina Regina præsentant, quod primo die Iulij, Anno regni Dom. nostræ Elizabeth. Dei gratia Angliæ, Franciæ, & Hyberniæ Regi fidei defensoris &c. Tricesimo, quidam H.W. nuper de G. in dicto comitatu **Tippler**, apud C. in comitatu prædicto, præ se ferens, & asserens se esse vnum ex prouisoribus & emptoribus hospitij dict. Dom. Regi. dicto primo die, Anno supradicto (quo quidem tempore nullum ostendit aut secum habuit warrantum sub magno aut paruo Sigillo dict. Dom. Regi.) apud C. prædictam in comitatu prædict. tres oues castratas (anglicè vocatas **weathers**,) precij viginti solidorum, de bonis & catallis I.S. de C. prædict. in dicto com. **yeoman** tunc ibidem existentes inuentas, sub colore purueiancie pro dicto hospitio, illegitimè ac felonicè cepit & abduxit: Contra pacem dictæ Dom. Regi. ac contra formam diuersorum Statutorum in huiusmodi casu prouisorum & editorum.

For slaunderous speach against the Queenes Maiestie.

IVratores pro Domina Regina præsentant, quod infra tres menses iam vltimò elapsos, viz. secundo die mensis Octobris, Anno regni Dom. nostræ Elizabeth

Dei gratia Angliæ, Franciæ, & Hyberniæ Regi. fidei defensoris &c. Tricesimo, G.P. de A. in dicto comitatu **Labourer**, in domo mansionali cuiusdam R. S. infra parochiam de A. prædicta in comitatu prædicto, ac in præsentia multorum dict Dom. Regi. subditorum fide dignorum tunc ibidem existentium, consultò, deliberatè, ac cum malitiosa intentione aduersus dictam dominam nostram nunc, ex imaginatione ipsius G. P. propria hæc falsa, seditiosa, scandalosa dicta, ad scandalum & defamationem dictæ Dom. Regi. nostr. tunc & ibidem loquutus est, vt in his Anglicis verbis sequitur, viz. (**Reciting the wordes themselues.**) In magnum dict. Dom. Regi. nostr. nunc contemptum, ac contra pacem, coronam, & dignitatem suas, nec non contra formam statut. in Parliamento dict. Dom. nostræ nuper tento apud Westmonasterium in comitatu Middlesexiæ, Anno regni sui vicesimo tertio, in huiusmodi casu prouisi ac editi.

For a Trespasse of Batterie and Mayheme.

IVratores præsentant pro Domina Regina, quod tertio die Septembris, Anno regni Dom. nostræ Elizabethæ, Dei gratia Angliæ, Franciæ & Hyberniæ Reginæ, fidei defensoris &c. Tricesimo, A.B. de C. in comitatu prædicto **Taylor**, vi & armis quoddam clausum cuiusdam I.S. apud C prædictam in comitatu prædict. fregit & intrauit, & in dictum I.S. tunc ibidem in pace Dei & dictæ Dom. Reginæ existentem, insultum & affrayam fecit, ac cum gladio districto, ad valentiam decem solidor. quem dictus A. B. tunc ibidem in leua manu sua tenuit, eundem I.S. crudeliter verberauit, ac dextrum pollicem dicti I. S. tunc ibidem vno ictu amputauit, ac sic eundem I. S. nequiter & felonicè tunc ibidem maihemauit, ad graue incommodum ipsius I.S. ac contra pacem dictæ Dom. Regi. nostræ, coronam, & dignitatem suam.

For a Champertie.

IVratores pro Domina Regina præsentant, quod I. C.T.C. ac I. P. de O. in dicto Comitatu **Yeomen**, ac alij (de confæderatione & couina prædictorum, I.C.T.C. & I.P. existentes) quoddam placitum assisæ nouæ dissessinę, quod nuper summonitum fuit in Curia dict. Domi. Reginæ, coram dilectis & fidelibus dict. Domi. Reginæ I.S. & I.K. & alijs nuper Iusticiarijs ipsius Dom. Reginę, ad assisam illam capiendam assignatis, per Breue ipsius Dom. Reginæ inter W.S. querentem, & I.H. tenentem, de libero quodam tenemento in N. & S. in comitatu prædicto, (viz. pro medietate inde sibi & hæredibus suis imperpetuum) viz. pro 100. libr. sterlingorum in pecunia numerata in hac parte habenda, per conuentionem inde inter prædictum N. S. & prefatos I. C. T. C. & I. P. 20. die mensis Augusti, Anno regni dict. Dom. nostræ Elizabeth. Dei gratia, Anglię, Franciæ & Hybernię Regi. fidei defensoris, &c. Tricesimo apud O. prędictam in dicto comitatu factam, pro prędicto W.S. contra prefatum I.H. dictis die, Anno, & loco, assumpserunt manutenendum, & manutenuerunt: in magnam dict. dom. Reginę contemptum, ac contra formam diuersorum Statutorum, huius regni sui Angliæ, in huiusmodi casu prouisorum ac editorum.

For a Tresspasse of depasturing corne and grasse.

INquiratur pro Domina Regina, Si A. B. de C. in dicto comitatu **yeoman**, 20. die mensis Augusti, Anno regni Dom. nostr. Elizabethæ, Dei gratia Angliæ, Franciæ & Hyberniæ Regi. fidei defensoris &c. Tricesimo, quoddam clausum cuiusdam I. S. apud C. prędictam in comitatu prædicto (vulgariter vocatum **Cow lease**) vi & armis fregit ac intrauit, ac herbas & blada triticea ipsius I. S. tunc ibidem crescentia (ad valentiam

valentiam 20.ſol.) cum quibuſdam bobus,& bidentibus ipſius A. B. tunc ibidem depaſtus eſt ac conſumpſit, Necnon ſolum & fundum ipſius I. S. tunc ibidem cum quodam aratro ſubuertit, per quod prędict. I. S. omne commodum & proficium dicti ſoli ſui, per longum tempus poſtea amiſit, Ac alia damna & enormia prædicto I. S. tunc ibidem intulit, ad graue damnum ipſius I. S. ac contra pacem dictæ Dom. noſtræ Reg. nunc, coronam & dignitatem ſuas.

For Embracerie of Iurors.

IVratores prędentant pro Domina Regina, quod A. B. C. D. E. F. G. H. &c. complices I. K. **naming all the Iurors**, &c. Iurat. in quadam aſſiſa nouæ diſſeſſinæ (quæ nuper ſummonita fuit coram dilectis & fidelibus dictæ Dominæ Reginæ I. B. I. C. & N. C. nuper Iuſticiarijs dictæ Dom. Reg. nunc ad aſſiſam illam capiendam, per Breue ipſius Dom. Reg. inter W. S. & I. H. de tenementis in N. in comitatu prædicto,& poſt modum, (viz. die Lunæ,&c. Anno &c. coram præfatis I. B. I. C. &c. apud M. in comitatu prędicto per Breue ipſius do. Reg. ſi non omnes capt. poſit.) pro veredicto ſuo in hac parte dicendo, de prędicto I. H. diuerſas pecuniarũ ſummas, viz. A. B. de prædicto I. H. 40. ſolid. & alia dona, ſcilicet panem, carnes,& vinum ad valentiam 20. ſolid. Et prędictus I. K. (Imbraciator eiuſdem aſſiſę ad eandem ducendam & procurandam) de prænominato W. S. ſummam 10. marcarum, vicęſimo die Auguſti, Anno regni dictæ dom. noſtræ Elizabethę, Dei gratia Anglię, Franciæ, & Hyberniæ Reginæ, fidei defenſoris,&c. Tricęſimo, apud M. prædictam in comitatu prędicto, illegitimè ceperunt. In dictæ Dom. Reg. nunc contemptum, ac contra formam cuiuſdam ſtatuti parliamento Domini Edwardi olim Regis Angliæ tertij, Anno regni ſui Tricęſimo octauo tento, in huiuſmodi caſu prouiſi ac editi.

Againſt

Precedents.

Againſt a common Barretour.

IVratores pro domina Regina præſentant, quod A. B. de C. in dicto comitatu Taylor, ſecundo die Octobris, Anno regni dictæ Dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, apud C. prædictam in Comitatu prædicto, fuit, & adhuc eſt communis Barectator, & pacis dictæ Dom. Reg. perturbator aſſiduus & publicus, necnon communis ac turbulentus calumniator, conuiciator, pugnator, & litium inter vicinos ſuos ſeminator, adeo vt diuerſas lites, controuerſias, necnon iurgia, & pugnas adtunc ibidem, & alibi in dicto comitatu, inter diuerſos dictæ Dom. Reg. ligeos & ſubditos, mouit, procurauit, & excitauit: In magnam dictæ Dom. Reg. pacis perturbationem, ac contra formam diuerſorum ordinationum ac ſtatutorum huius regni ſui Angliæ, in huiuſmodi caſu antehac prouiſorum ac editorum.

For conuerting ground of Tillage into Paſture.

IVratores præſentant pro domina Regina, quod H. W. de A. in dicto comitatu generoſus, primo die Nouem. Anno regni dict. dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ fidei defenſoris, &c. Triceſimo, ſeiſitus exiſtens in dominico ſuo vt de feodo, de, & in 12. acris terræ arabilis in A. prædict. in com. prædicto iacentibus (ac de, aut in aliqua libera warrenna non exiſtentibus, ſed per ſpacium 4. annorũ dict. primum diem Nouemb. Ann. ſupradict. proximè precedentium, in cultura & ſeminatione granorum vſitatis & applicatis) dicto primo die Nouemb. An. ſupradict. ac diuerſis alijs diebus & vicibus, antea, & poſt, prædict. 12. acras terræ arabilis, à cultura prędict. & ſatione granorum, vſq; in hunc diem præſentem, in paſturam pro cuniculis cuſtodiendis conuertebat, & adhuc

conuerti

conuertit & custodit: Ad graue nocumentum bladorum I. R. R.T. & W.M. de A. prædict. in com. (vicinorum ibidem existentium) ac contra formam diuersorum statutorum in huiusmodi casu prouisorum & editorum.

For extortion in a Coroner.

INquiratur pro Dom. Regina, si A. C. de B. in dicto comitatu generosus, 6. die Iunij, Anno reg. dom. nostræ Elizabethæ, dei gratia Angliæ, Fran. & Hyberniæ Reginæ, fidei defensoris, &c. Tricesimo, vnus coronatorum dictæ Dom. Reginæ in dicto comitatu ad tunc existens, apud B. prædictam in comitatu prædict. colore officij sui prędicti extorsiuè cepit pro feodo suo. 20. sol. de quodam I. S. in dicto comitatu generoso, in, & pro functione & executione officij sui prædicti, super visum corporis R. N. nuper de B. prædicta in com. prędicto (qui quidem R. N. 5. die dicti mensis Iunij, Anno supradicto, apud B prædict. in com. prædict. casu, ab equo suo, per infortunium fuit occisus) in magnum dictæ Dom. Reginæ contemptum, ac contra formam statuti in parliamento Domini Henrici nuper regis Anglię octaui tento, Anno regni sui primo, in huiusmodi casu prouisi ac editi.

For Extortion in a Bishops Scribe, or Registrer.

IVratores pro Domina Regina præsentant, quod A. B. de C. in dicto com. generosus, primo die mensis Augusti, Anno regni dict. Dom. nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defensoris, &c. Tricesimo, (ad tunc scriba, (siue Registrarius) reuerendi in Christo patris, D. tunc permissione diuina Hagustaldensis Episcopi existens) apud M. in com. prædict. colore officij sui prædicti, extorsiuè ac iniuriosè cepit de quodam I. S. de M. prædicta in dicto com. Husbandman, duos solidos legalis monetę Angliæ, pro feodo ipsius A. B. pro scriptione probationis

vnius

vnius teſtamenti cuiuſdam R. N. (qui quidem R. N. apud M. prædictam infra diœceſim dicti D. Epiſcopi viceſimo quarto die Iulij, Anno ſupradicto mortuus eſt) vbi reuera idem Teſtamentum tunc ibidem allatum eſt ad dictum Scribam (ſiue Regiſtrarium) per dictum I. S. in pergameno ſcriptum: & vbi omnia bona, Iura, & credita dicti R. N. dicto tempore dictæ mortis ſuæ non excedebant ſummam quinque librarum: & vbi etiam tota dicta ſcriptio probationis teſtamenti prædicti per præfatum Scribam (ſiue Regiſtrarium) ſic vt præfertur facta, non continebat in ſe quadraginta lineas, quarum quæque linea erat decem pollicium in longitudine: In magnum dictæ Dom. Reginæ contemptum, ac contra formam cuiuſdam ſtatuti in parliamento Domini Henrici nuper Regis Angliæ octaui tento, Anno regni ſui viceſimo primo, in huiuſmodi caſu prouiſi ac editi.

For a riotous affray, at the quarter Seſſions of the Peace.

IVratores pro Domina Regina præſentant, quod octauo die Octobris Anno regni dict. Dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, apud M. in comitatu prædicto tempore generalis Seſſionis pacis pro dicto comitatu tunc ibidem tentæ, & H. C. milite, & ſocijs ſuis Iuſticiarijs dictæ Dominæ Reginæ, ad pacem in dicto comitatu conſeruandam aſſignatis tunc ibidé exiſtentibus, & in plena curia ſedentibus, quidam A. B. C. D. E. F. G. H. & I. K. de S. in comitatu prædict. generoſi, aggregatis ſibi nonnullis alijs pacis dictæ dominæ Reginæ perturbatoribus ignotis, ad numerum 20. hominum, vi & armis, viz. gladijs, & pugionibus armat. illicitè, routoſè, & riotoſè ſeſe aſſemblauerunt ac inter ſe inſultum & affraiam maximam tunc ibidem fecerunt, ſeſe inuicem verberantes & vulnerantes, in magnum terrorem tàm dictorum Iuſticiariorum tunc ibidé

in

in curia ſedentium, quàm totius populi dict. Dom. Reginæ ad dictam ſeſſionem pacis tunc ibidem conuenientium, ac contra pacem, coronam, & dignitatem dictæ. Dom. Reginæ noſtræ.

For giuing of a Liuerie.

IVratores pro domina Regina præſentant, quod T. B. de C. in dicto comitatu armiger, ſecundo die Septembris, Anno regni dictæ Dom. noſtræ Elizabethæ Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, apud C. prædict. in comitatu prædicto, quaſdam liberatas veſturæ, viz. cuidam A. B. de C. prædicta in comitatu prædicto **Yeoman**, tres vlnas panni lanei, coloris veneti, pretij 20. ſol. & C. D. de E. in dicto comitatu **Yeoman**, alias tres vlnas ſimilis panni lanei, eorundem coloris & pretij, ad duas ſeparales tunicas pro prætatis A. B. & C. D. inde faciendas, dedit ac diſtribuit: vbi reuera præfati A. B. & C. D. aut eorum alter, nunquam fuerant, aut fuit domeſtici ſeruientes aut domeſticus ſeruiens, officiarij, ſiue officiarius, Balliui ſiue Balliuus dicti T. B. aut de conſilio ipſius T. B. in vna lege ſiue altera eruditi vel eruditus: In magnum dictæ dom. Reginæ contemptum, ac contra formam diuerſorum Statutorum in huiuſmodi caſu prouiſorum & editorum.

For receiuing and vſing of a Liuerie.

IVratores pro Domina Regina prẽſentant, quod A. B. de C. in dicto comitatu **Yeoman**, vnam liberatam panni, viz. tres vlnas panni lanei, coloris veneti (vocati Anglicè **watchet**) ad valentiam 20. ſolid. ad tunicam inde ſibi faciendam de T. B de C. prædicta in comitatu prẽdicto armigero, apud C. prædictam in dicto comitatu, ſecundo die Auguſti, Anno regni dictæ dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, recepit: & eadem tunica à dicto die ſecundo, ann. ſupradict. vſq;

tertium

tertium diem menſis Septembris, Anno ſupradicto, apud C. prædictam & alibi in diuerſis locis infra comitatum prædictum vſus eſt: vbi idem A. B. dicto tempore receptionis liberatæ prædict. aut vnquam poſtea non fuit familiaris, officiarius, aut de conſilio dicti T.B. in vna lege aut altera eruditus: In magnum dictæ dom. Reginæ contemptum, ac contra formam diuerſorum Statutorum in huiuſmodi caſu antehac prouiſorum, & editorum.

For Vſurie.

IVratores pro Domina Regina preſentant, quod vbi A.B.de C. in dicto comitatu **Mercer**, primo die Octobris, Anno regni dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, apud C. prædictam in dicto comitatu mutuò dediſſet, & accommodaſſet cuidam D.E. de C. prædicta in dicto comitatu **Shoomaker**, ſummam 20 libr. in pecunijs numeratis de pecunijs dicti A. B. in ea intentione, vt idem D. E. viginti libras eidem A B. redderet & reſolueret primo die Aprilis tunc proximè futuro: Idem A. B. ad tunc & ibidem iniuſtè cepit & habuit ptæ manibus, de prænominato D. E. viginti ſex ſolidos in lucro, vſura, & proficuo pro differendo & dando diem ſolutionis ſic vt profertur earundem 20. lib. à dicto primo die Octobris ann. ſupradict. vſque dictum 1. diem Aprilis tum proximè ſequentem, qui quidem viginti ſex ſolidi (modo & forma prędictis, præ manibus capti & habiti) multò excedunt & ſuperant ratam & proportionem decem librarum pro centum libris pro vno anno integro accommodand. ad damnum non mediocre ipſius D. E. ac in contemptum dictæ Dominæ Reginæ nunc, necnon contra formam diuerſorum Statutorum in huiuſmodi caſu prouiſorum & editorum.

Againſt

Againſt Bakers, conſpiring to make ſmall bread.

IVratores pro domina Regina præſentant, quod A. B. C. D. E. F. & G. H. de M. in dicto Comitatu piſtores ſecundo die Octobris, Anno regni dictæ Dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, apud M. prædict. in comitatu prædict. inſimul conuenerunt, conſpirauerunt, ac mutuò inter ſe promiſerunt, quod panis denarij de integro frumento (per eos ſeu eorum aliquem, tum deinceps faciendus ac vendendus) non amplius quàm 2. libras & ſex vncias Troiæ ponderis habebit & ponderabit, (quodcunq; impoſterum foret vnius quarterij frumenti pretium:) In dictæ Dom. noſtræ Reg. nunc contemptum, ac in extremum pauperum dict. Dom. Reg. ſubditorum grauamen, necnon contra formam diuerſorum ſtatutorum in huiuſmodi caſu prouiſorum & editorum.

For a common Bridge, that is in dangerous decay.

IVratores pro Dom. Regina præſentant, quod pons publicus & communis, ſitus in alta Regia via ſuper flumen de Medway, infra parochiam de A. in Comit. prædicto (vulgariter dictus Aleſeford Bridge) eſt, & per aliquot annos iam proximè lapſos fuit, valdè ruinoſus, & in maximo decaſu ob defectum reparationis, adeo vt ſubditi dictæ Dominæ Reginæ, in, ſuper, trans, vel vltra dictum pontem, per ſe, vel cum eorum equis, bigis aut cariagijs, ire, redire, aut tranſire, ſine magno vitæ diſcrimine non audent aut poſſunt, ad commune nocumentum omnium vicinorum, & compatriotarum in dicto comitatu habitantium, quorum intereſt ratione negotiorum ſuorum illâc tranſire: Et vlterius, quod prorſus neſcitur, quæ perſonæ quæue terræ, tenementa, aut corpora corporata, & politica, eundem

Kanc.

eundem pontem, aut aliquam inde parcellam, ex iure, aut ex antiqua consuetudine, reficere & reparare debent, aut consueuerunt.

For a Rogue, or Vagabond, and his relieuer.

IVratores pro Dom. Regina præsentant, quod A.B nuper de C. in dicto comitatu Scauelman, ætatis 14. annorum & ampliùs, ac corpore sano, valente, potente, atque ad laborandum habili existens, nullam autem habens terram, aut vllum magistrum, nec aliqua vtens licita merchandiza, arte, vel mysterio vnde sibi victum parare posset, ac prorsus nesciens rationem reddere quo pacto victum suum legitimè acquirit, decimo die Augusti, Anno regni Dominę nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defensoris, &c. Tricesimo, apud E. infra Hundredum de W. in comitatu prædicto, & multis alijs in locis dicti comitatus, hâc illâc passim vagatus est mendicans, ac per W. P. de E. prædicta in dicto comitatu yeoman, constabularium dicti Hundredi de W. (in quo sita est villa de E. prædicta) postea, viz. vndecimo die dicti mensis Aug. Anno supradict. apud E. prædict. in comitatu prædicto inuentus est vagarans, & mendicans, ac per eundem constabularium tunc ibidem deprehensus est inordinatè se gerens, tanquam vagabundus, & mendicus valens: contra pacem dictæ Dominę Reginæ, ac contra formam diuersorum Statutorum in diuersis parliamentis dictæ Dominæ Reginæ nunc inde prouisorum & editorum: Et vlteriùs, quod G. H. de E. prædicta in dicto comitatu yeoman, sciens præfatum A.B. modo & forma prędictis vagantem & mendicantem, eundem tamen A. B. dicto decimo die Anno supradicto in domo ipsius G.H. mansionali apud E. prædictam in comitatu prædicto hospitauit, & eidem A. B. tunc ibidem panem & potum voluntariè dedit, in contemptum dictæ Dominæ Reginæ, ac contra formam

nam Statutorum prædictorum.

For keeping a Tipling house without licence.

IVratores pro Domina Regina præsentant, quod A. B. de C. in dicto comitatu yeoman, vicesimo die mensis Octobris, Anno regni Dominæ nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defensoris, &c. Tricesimo, & continuè multis diebus postea, viz. vsque primum diem dicti Octobris, Anno supradicto, apud C. prædict. in comitatu prædicto, obstinatè, atque ex autoritate propria ipsius A. B. & sine vlla Iusticiariorum pacis dictæ Dominæ Reginæ in comitatu prædicto admissione aut allocatione, assumpsit super se custodire, & custodiuit vnam communem Tabernam (Anglicè vocatam a common Tipling house,) & ibidem dicto vicesimo die, & dictis diebus tum postea, communiter & publicè vendidit ceruisiam, panem, & potum (Anglicè dictum Beere) diuersis dictæ Dominæ Reginæ ligeis & subditis. In dictæ Dominæ Reginæ contemptum, ac contra formam cuiusdam Statuti, in parliamento Domini Edwardi nuper Regis Angliæ sexti, tento apud Westmon. Anno reg. dict. Dom. Edwardi quinto, in huiusmodi casu prouisi & editi. *Kanc.*

For keeping vnlawfull play, and for playing thereat.

IVratores pro Domina Regina præsentant, quod A. B. de C. in dicto comitatu Tipler, secundo die Septembris, Anno regni Dominæ nostræ Elizabethæ, Dei gratia, Anglię, Francię, & Hybernię Reginæ, fidei defensoris, &c. Tricesimo, & continuè post dictum diem Anno supradicto, vsque primum diem mensis Octobris, Anno supradicto, apud C. prædictam in comitatu prędict, quendam communem locum iaciendi globos (vocatum Anglicè, A common Bowling al-

ley) pro lucro ipsius A.B. proprio, & ad ludendū tunc ibidem cum globis (Anglicè vocatis **Bowles**) illicitè tenuit, custodiuit, ac manutenuit, contra formam cuiusdam Statuti in parliamento Dom. Henrici nuper regis Angliæ 8. tento anno regni sui, 33. in huiusmodi casu prouisi & editi: Et quod I. S. de C. prædicta in dicto comitatu **Labourer**, & tres aliæ personæ ignotæ, dicto secundo die Septemb. Ann. supradicto, dictum communem locum vsitauerunt, ac tunc ibidem cum globis (Anglicè vocatis **Bowles**) in simul & illicitè luserunt, contra formam Statuti prędicti.

For hunting of Conies.

IVratores pro Domina Regina præsentant, quod A.B. de C. in dicto comitatu **Labourer**, (homo laicus existens) à festo Sancti Bartholomæi Apostoli, Anno regni Dominę nostræ Elizabethę, Dei gratia Angliæ, Franciæ, & Hybernię Regin. fidei defensoris, &c. Tricesimo, continuè vsque in hunc præsentem diem, apud C. prædictam in comitatu prędicto, habuit & custodiuit vnum canem græcum (Anglicè vocatum a **Greyhound**) ad venandum & chaceandum lepores & cuniculos: Et quod idem A. B. vicesimo septimo die mensis Augusti, Anno supradicto, vnum cuniculum valoris 4. denarior. in quodam clauso I. S. de C. prædicta in dicto comitatu generosi (vocato **the Conisgarth**) infra parochiam de C. prædicta dicto comitatu existent. cum dicto cane venatus est, & occidit, vbi idem A.B. nunquam habuit terras aut tenementa, ad clarum annuum valorem quadraginta solidorum: In dictæ Dominæ Reginæ contemptum, ac contra formam cuiusdam Statuti in parliamento Domini Richardi, olim regis Angliæ secundi, tento Anno regni sui tertio decimo, in hoc casu prouisi ac editi.

For vsing the Arte of Mercerie, against the Statute.

IVratores pro Domina Regina præsentant, quod A. B. de C. in dicto comitatu Mercer, vicesimo die mensis Maij, Anno regni dictæ Dominæ nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginę, fidei defensoris, &c. Tricesimo, & multis alijs diebus continuè post dictum diem per spacium duorum mensium, videlicet, vsque tricesimum diem Iulij, anno supradicto, apud C. prædictam in comitatu prædicto, quãdam artem, siue mysterium (Anglicè dictum Mercerie) illicitè pro lucro suo proprio vsitauit & exercuit: tunc ibidem vendendo diuersas res siue merces (Anglicè vocatas Mercerie wares) diuersis dictæ Dominæ Reginæ ligeis & subditis: vbi reuera idem A. B. nunquam fuit in dicta arte siue mysterio educatus tanquam apprenticius per spatium septem annorum, nec idem A. B. eandem artem (siue mysterium prędictum) vnquam ante prędictum vicesimum diem, Anno supradicto vsitauerit, aut exercuerit: In magnum dictæ Dominæ Reginæ contemptum, ac contra formam cuiusdam Statuti, in Parliamento dictæ Dominæ Reginæ nostræ nunc, tento apud Westmonast. Anno regni sui quinto, in hoc casu prouisi ac editi.

For wearing Silke.

IVratores pro Domina Regina præsentant, quod A. B. de C. in dicto Comitatu Taylor, natus intra hoc regnum Angliæ, videlicet, apud C. prædictam, sed filius aut hæres apparens alicuius militis, aut filius hominis altioris gradus non existens, nec potens expendere per annum viginti libras, in terris, tenementis, feodis, officijs, aut alijs annuis reuentionibus, pro termino vitæ suæ: nec valens ducentas libras de bonis suis proprijs: nec vnquam Maior, Baliuus,

Aldermannus, aut capitularis officiarius in aliqua Ciuitate, burgo, aut villa corporata exiſtens, nec dictæ Dom. Reg. ſeruiens in ordinario (vtens dictæ Dom. Reginæ liberata) exiſtens: 20. tamen die Octobris, anno regni dict. dom. noſtræ Elizabethæ, Dei gratia, Angliæ, Franciæ, & Hyberniæ Reg. fidei defenſoris, &c. Triceſimo, apud C. prædictam in comitatu prædicto, per totum dictum 20. diem Anno ſupradicto, in interiore parte cuiuſdam pilei ſui (Anglicè vocati a **Cap**) quodam ſerico (Anglicè dicto **Taffata**) (ad valorem 2. ſolidorum) illicitè & palam vſus eſt: contra formam cuiuſdam Statuti, in parliamento Philippi & Marię nuper Regis & Reginæ Angliæ tento apud Weſtm. in comitatu Middleſex, Annis regnorum ſuorum, primo & ſecundo, in huiuſmodi caſu prouiſi & editi.

For regrating of fiſh and butter.

IVratores pro Domina Regina præſentant, quod A.B. de C. in dicto comitatu **Mercer**, 20. die Iulij Anno regni dictæ Dominæ noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, apud C. prædictam in comitatu prædicto, in quodam mercatu tunc ibidem tento pro 40. ſolid. monetę emit, regratauit, obtinuit, & nactus eſt in poſſeſſionem & manus ſuas, decem paria piſcium (Anglicè dicta, **tenne couples of Lings**) & tria vaſa butyri ſalſi (Anglicè vocata **three firkins of ſalt Butter**,) de quodam E.F. qui prædicta decem paria piſcium, ac dicta tria vaſa butyri ad eundem mercatum vt ea ad tunc ibidem venderet adduxiſſet: Et quod immediatè poſtea, ſcilicet dicto 20. die An. ſupradicto, idem A. B. in dicto eodem pleno mercatu tunc ibidem apud C. prędictam in dicto comitatu tento, eadem omnia dicta paria piſcium, ac butyri vaſa, cuidam H. R. pro ſexaginta ſolid. legalis monetæ dictæ Dominæ Reginę huius regni ſui Angliæ, illicitè vendidit, in magnum reipublicæ damnum, ac contra formam diuerſorum

Statuto-

Statutorum huius regni Angliæ in huiuſmodi caſu prouiſorum & editorum.

For not working vpon the High wayes.

IVratores pro Domina Regina præſentant, quod vbi die Martis in ſeptimana paſchæ iam vltimò præteritæ, ſcilicet ſeptimo die menſis Aprilis, Anno regni dictæ Dom. noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginę, fidei defenſoris, &c. Triceſimo, A. B. tunc Conſtabularius villę de C. in dicto comitatu, & D. E. & F. G. tum guardiani eccleſiæ parochialis de C. prædicta in comitatu prædicto exiſtentes, vocatis ad ſe multis alijs parochianis dictæ parochiæ de C. tunc & ibidem elegerunt quoſdam I. S. & R. N. duas honeſtas eiuſdem parochiæ perſonas, in ſuperuiſores pro vno anno integro tunc proximè ſequenti, pro emendatione & reparatione altarum regiarum viarum infra dictam parochiam de C. ducentium à villis mercatorijs, ad villas mercatorias: Ac etiam tunc ibidem nominauerunt & appunctuauerunt ſex dies, viz. 1: 2: 3: 4: 5: & 6: dies menſis Maij tunc proximè ſequentis, pro dicta emendatione dictarum viarum, & nominatim pro emendatione illius viæ Regiæ ibidem quæ eſt inter, &c. atque de eiſdem ſex diebus (ſic per eos vt præfertur nominatis & appunctuatis) dederunt palam poſtea, (ſcilicet die dominico dict. Paſch. tunc proximè ſequenti) publicam notitiam in dicta eccleſia parochiali: Quidam tamen T. W. tum & adhuc parochianus de C. prædicta in comitatu prædicto exiſtens, ac tum habens & occupans in dicta parochia de C. in comitatu prædicto vnam integram carucatam terræ arabilis (Anglicè dictam **a ploughland**) nullum dictis primo ſecundo, & quarto diebus dicti menſis Maij Anno ſupradict. prorſus inuenit, aut miſit currum inſtructum (Anglicè dictum **a waine, or Cart furniſhed**) equis, bobus, aut alijs animalibus, & neceſſarijs, ſecundum morem patriæ ibidem: nec vllos habiles homines,

erga emendationem & reparationem dictarum viarum aut earum aliquam, siue aliquam inde parcellam: sed inde tunc ibidem voluntariè fecit defaltam: in dictæ Dominæ Reginæ contemptum, ac contra formam diuersorum Statutorum in huiusmodi casu prouisorum & editorum.

Against a Goldsmith.

IVratores pro Domina Regina præsentant, quod A. B. de C. in dicto comitatu Aurifaber, secundo die Iulij, Anno regni Dominæ nostræ Elizabethæ, Dei gratia, Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defensoris, &c. Tricesimo, apud S. prædictam in Comitatu prædicto, quoddam manubrium pugionis ferrei (Anglicè dictum **a dagger hilt of yron**) cuiusdam E. D. de S. prædicta in dicto comitatu **yeoman**, valoris duorum solidorum auro purissimo ad valentiam quinq; solidorum deaurauit, (Anglicè **did Gild with the finest Golde**) in magnum Reipublicæ detrimentum, ac contra formam cuiusdam Statuti in Parliamento Domini Henrici nuper Regis Angliæ quinti, tento Anno regni sui octauo, in huiusmodi casu prouisi & editi.

For taking of Phesants and Partriches.

IVratores pro Domina Regina præsentant, quod W. de S. in dicto comitatu **Labourer**, circiter horam decimam ante meridiem vicesimi diei Augusti, Anno regni dictæ Dominæ nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hybernlæ Reginæ, fidei defensoris, &c. Tricesimo, in quodam loco infra parochiam de S. prædicta in comitatu prædicto (vocat. vulgariter, **the Wheate field**) qui quidem locus tunc fuit, & adhuc est liberum tenementum A. B. de S. prędicta in dicto comitatu generosi (nec vnquam fuit in, aut de warrena ipsius W. G. propria) duos phasianos & decem perdices

perdices, cum quibuſdam reticulis, & alijs ingenijs (valoris duorum ſolidorum) tunc ibidem cepit, occidit, & aſportauit, ſine aliquibus aſſenſu, aggreamento, aut ſpeciali licentia dicti A.B. in hac parte habitis aut obtentis: In dictæ Dominæ Reginæ nunc contemptum, ac contra formam cuiuſdam Statuti in Parliamento Dom. Henrici nuper Regis Angliæ ſept. tento Anno regni ſui vndecimo, in huiuſmodi caſu prouiſi & editi.

For not keeping watch in a Towne.

IVratores pro Domina Regina præſentant, quod à decimo die Iunij, Anno regni dictæ Dominæ noſtræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defenſoris, &c. Triceſimo, vſque vltimum diem menſis Auguſti Anno ſupradicto, homines & inhabitantes villæ de C. in comitatu prædicto, nullas vigilias à ſolis occaſu vſque ad ſolis ortum, in dicta villa de C. in comitatu prædicto, per aliquos homines, fecerunt, aut cuſtodierunt, prout de iure & antiqua conſuetudine facere debent & ſolebant: In dictæ dominæ Reginæ nunc contemptum, ac contra formam cuiuſdam Statuti, in Parliamento Domini Edwardi olim Regis Angliæ primi, apud Wynton Anno regni ſui tertio decimo tento, in huiuſmodi caſu prouiſi & editi.

For not keeping watch at the Sea coaſt.

IVratores pro Domina Regina præſentant, quod vbi homines & inhabitantes hundredi de F. in comitatu prædicto, antiquitus (viz. ante annum regni Dom. Henrici nuper Regis Angliæ quarti quintum) quaſdam maritimas & minutas vigilias (Anglicè vocatas Sea-watch,) tempore belli per coſteram maris in quodam loco (vocato Sandgate) in dicto comitatu, per quatuor homines ſingulis noctibus (à tempore in cuius contrarium memoria hominum tunc nõ exiſtebat)

custodire debebant & solebant: dicti tamen hundred de F. homines & inhabitantes nunc, tempore nuper belli, viz. à vicesimo quarto die Iulij, Anno regni dictę Dominæ nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defensoris, &c. Tricesimo, vsque tricesimum primum diem dicti mensis Iulij, Anno supradicto, prædictas vigilias apud Sandgate prędictam, modo & forma prædictis, facere, & custodire voluntariè prætermiserunt & neglexerunt, ac in eisdem vigilijs tunc ibidem (sic vt præfertur faciendis ac custodiendis) voluntariam fecerunt defaltam: In dictæ Dominæ Reginæ contemptum, ac hujus regni sui Angliæ dispendium non modicum, nec non contra formam Statuti in Parliamento dicti Domini Henrici nuper Regis Angliæ quarti, tento Anno regni sui quinto prædicto, in huiusmodi casu prouisi ac editi.

For not keeping a Gelding fit for the warre.

IVratores præsentant pro Domina Regina, quod vbi A B. de C. in dicto comitatu generosus, à primo die Iunij, An. regni dictæ Dom. nostræ Elizabethæ, Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ, fidei defensoris, &c. Tricesimo, vsque in hunc prędentem diem, terras & tenementa in C. prædicta in dicto comitatu eidem A. B. & heredibus suis in feodo simplici ad clarum annuum valorem centum marcarum & amplius vltra omnes repriſas habuerit, ac tenuerit: Idem tamen A.B. per totum tempus prædictum, viz. à dicto primo die Iunij, Anno supradict. vsq; nunc, nullum habuit, custodiuit, manutenuit, aut sustinuit equum castratum (Anglicè dictum a **gelding**) habilem & idoneum pro leuis armaturæ equite (Anglicè **able, & meete for a light horseman**) in dictæ Dom. Reginæ contemptum, ac in magnam huius regni sui Angliæ enervationem, necnon contra formam cuiusdam Statuti

in Parliamento Philippi & Mariæ nuper Regis & Regi. Angliæ, tento apud Westm. annis regnorum suorum quarto & quinto, in huiusmodi casu prouisi ac editi.

For conuerting a house to a Cottage, and for vpholding it.

IVratores pro Dom. Regina prælentant, quod 24. die Iulij, An. reg. Dom. nostr. Elizab. 32. quidam Io. Thurstone de H. in dicto com. Calcearius, australem partem cuiusdam domus mansionalis tunc & modò existentis in H. prædict. in com. prædict. viz. vnam aulam, & 2. chameras ordinauit & conuerit ad & in Cotagiũ pro habitatione, viz. vt quidam Anth. Burton de H. prædict. in com. prædict. Sc issor eadem australi parte dictæ domus pro habitatione sua vteretur: qui quidẽ A. B. dictũ illud cotagium modo inhabitat. Vbi reuera dictus I. T. nunquam assignauit aut adiecit dicto cotagio 4. acras terræ secundum statutum, siue ordinationem de terris mensurandis computandas: de libero ipsius I. T. tenemento, vel de hæreditate sua, propè dictum cotagium iacentes ac vnà cum dicto cotagio continuè occupandas: In magnum dict. dom. Regi. contemptum, ac contra formam cuiusdam Statuti in parliamento dictæ dom. Regi. nostr. tento apud Westm. An. regni sui 31. in huiusmodi casu prouisi ac editi. Et vlterius præsẽtant, quod prædict. Anth. B. ipsum idem cotagium sic vt præfertur conuersum ac ordinatum a dicto 24. die dicti mensis Iulij an. 32. supradict. vsq; ad 20. diem huius præsentis mensis Septem. An. 32. supradict. apud Halling prędict. volũtariè sustinuit, manutenuit, & continuauit, in magnum dictæ dom. Reginæ contemptum, & contra formam Statuti prædicti. *Kanc.*

Hitherto of Enditements and presentmentes: for a further direction wherein the Reader may haue recourse to the fift chapter of the fourth Booke of the *Eirenarcha* before: in which he shal find sundry rules for the right framing of them.

Pro

Proceſſe vpon Enditements

and preſentments taken out of the old imprinted Booke of the Iuſtices of Peace.

Note that the Proceſſe (vpon an Enditement of Treaſon, or Felonie) is vſually,

A *Capias.*
A *Capias alias.*
An *Exigi facias.*

And in euery ſuch Capias, there ought to bee three weekes ſpace betweene the Date and the Returne thereof.

The *Capias* is thus:

ELizabeth Dei gratia Angliæ, Franciæ & Hyberniæ Regina, fidei defenſor, &c. vicecomiti Kanc. ſalutem: Præcipimus tibi, quod non omittas propter aliquam libertatem in Balliua tua, quin eam ingrediaris, & capias A. B. de C. in dicto comitatu tuo Labourer, & eum ſaluò cuſtodiri facias: Ita quod habeas corpus eius coram cuſtodibus pacis noſtræ, nec non Iuſticiarijs noſtris ad diuerſa felonias, tranſgreſſiones, & alia malefacta in dicto comitatu tuo perpetrata audiendum & terminandum aſſignatis, ad proximã generalem Seſſionem pacis Comitatus tui poſt clauſum Paſchæ proximè futuræ tenendam (vbicunque in eodem comitatu teneri contigerit) ad reſpondendum nobis tunc ibidem de quadam felonia vnde indictatus exiſtit. Præcipimus etiam tibi, quod non omittas propter aliquam libertatem in balliua tua prædicta, quin diligenter iniquiras quæ bona & catalla prædictus A. B. habet in balliua tua, & ea in manus noſtras ſeiſiri facias, vt vlteriùs inde fieri poſſit, prout de iure, & ſecundum

dum legem & conſuetudinem Regni noſtri Anglię fuerit faciendū. Et habeas ibi tunc hoc præceptum. Teſte H.Co. milite, apud M. prædictam in comitatu prędicto 24. die Februarij, Anno regni noſtri, Triceſimo.

The *alias Capias.*

ELizabetha Dei gratia Angliæ, Franciæ, & Hybernię Reginæ, fidei defenſor, &c. Vicecomiti Kanc. ſalutem: Præcipimus tibi (ſicut alias tibi præcepimus) quod non omittas propter aliquam libertatem in balliua tua, quin eam ingrediaris, & Capias A. B. de C. in comitatu tuo **Labourer**, **and ſo worde for worde as the Capias before, chaunging the dayes onely.**

The *Exigi facias.*

ELizabeth Dei gratia, Angliæ, Franciæ & Hybernię Regina fidei defenſor, &c. vicecomiti Kanc. ſalutem: Præcipimus tibi, quod exigi facias, A. B. de C. in comitatu tuo **Labourer**, de comitatu in comitatum, quouſque ſecundùm legem & conſuetudinem regni noſtri Angliæ vtlagetur ſi non comparuerit: & ſi comparuerit, tunc eum capias, & ſaluò eum cuſtodiri facias, ita quod habeas corpus eius coram cuſtodibus pacis noſtræ, nec non luſticiarijs noſtris, ad diuerſa felonias, tranſgreſſiones, & alia malefacta in dicto Comitatu perpetrata audiendum & terminandum aſſignatis, ad generalem Seſſionem pacis Comitatus tui proximè poſt feſtum Sancti Michaelis Archangeli proximè futuri tenendam (vbicunque in eodem Comitatu teneri contigerit) ad reſpondendum nobis de quadam felonia vnde indictatus exiſtit, & vnde tu ipſe mandaſti coram præfatis luſticiarijs noſtris (tali die &c.) quod præfatus A. B. non eſt inuentus in Balliua tua, & habeas tunc ibi hoc breue. Teſte. H. C. milite, apud M. in comitatu prædicto ſexto die Septemb. Anno regni noſtri Triceſimo.

Ad

Ad quē diem I.F.Armiger, vicecomes comitatus prædicti retornauit,quod ad comitatum ſuum tentum apud P.4.die Maij,Anno regni dom. Reginæ nunc,&c.(and ſo,ſhewing the dayes of his other foure counties)prædictus A.B.exactus fuit, & non comparuit,& propterea vtlagatus fuit.

The common Proceſſe vpon other Preſentments (**not being in** Felonie, **not ſpecially ſet forth in** Statutes) **is in that old booke declared to be,firſt,**

A *Venire facias* thus,

ELizabeth Dei gratia Angliæ, Franciæ & Hyberniæ Regina, fidei defenſor, &c. viceconiti Kanc. ſalutem:Præcipimus tibi,quod non omittas propter aliquam libertatem in Balliua tua,quin venire facias A.B. de C.in dicto com. tuo **yeoman,** coram cuſtodibus pacis noſtræ , necnon Iuſticiarijs noſtris ad diuerſa felonias,tranſgreſſiones,& alia malefacta in dicto comitatu perpetrata audiendum & terminandum aſſignatis,ad generalem Seſſionem pacis comitatus tui proximè poſt,&c. ad reſpondendum nobis ſuper quibuſdam articulis ſuper ipſum A.B.præſentatis,& habeas ibi tunc hoc preceptum.Teſte &c.

And if vpon this Venire facias **the partie be returned** ſufficient,**then a** Diſtringas **muſt go out,and ſo the ſame** Proceſſe **infinite, vntill he come in in:which is thus,**

ELizabeth Dei gratia,Angliæ,Franciæ & Hybernię Regi.fidei defenſor,&c,vicecomiti Kanc. ſalutem Præcipimus tibi,quod non omittas propter aliquā libertatem in Balliua tua , quin eam ingrediaris,& diſtringas A.B.de C.in comita.tuo **yeoman,** per omnia terras & tenementa,&c.Et quod de exitibus eorū reſpōdeas,&c.Et quod habeas corpus eius coram præfatis Iuſticiarijs, &c.ad reſpondendum,&c.Teſte &c.

But

But if Nihil habet bee returned at the firſt againſt him, then a Capias,

an Alias Capias,

a Pluries Capias, which hath no change but the word Pluries for Alias: and laſtly, an Exigi facias, muſt be awarded againſt him.

This is the generall proceſſe: the ſpeciall muſt be ſought for in the eight Chapter of the fourth booke of the Eirenarcha before, and in thoſe Statutes which do namely appoint them.

A *Superſedeas* to ſtay the taking of one that is endited of ſome *Treſpaſſe*, or contempt.

ELizabetha Dei gratia Angliæ, Franciæ & Hyberniæ Reginæ, fidei defenſor, &c. Vicecomiti Kanc. ſalutem: Quia A.B. de C. in dicto comitatu yeoman, venit in Curia noſtra coram H.C. milite, ſocijs ſuis (Cuſtodibus pacis noſtræ, ac Iuſticiarijs noſtris ad diuerſa felonias, &c. aſſignatis) apud M. tali die &c. Et inuenit ſufficientes manucaptores eſſendi coram præfatis Iuſticiarijs, ad proximam generalem Seſſionem pacis in dicto comitatu tenendam, ad reſpondendum nobis de quibuſdam tranſgreſſionibus ſuper ipſum præſentatis. Ideo tibi præcipimus, quod de capiendo præfatum A.B. ſeu ipſum impriſonando, vel cum ea de cauſa aliqualiter moleſtando, omnino ſuperſedeas. Et ſi cum ea de cauſa & non alia ceperis, tunc ipſum ſine delatione deliberari facias. Teſte præfato H. C. milite apud M. prædictam, die & anno &c.

A Superſedeas *to ſtay the* Exigi facias *vpon an Enditement of felonie.*

ELizabeth Dei gratia Angliæ, Franciæ, & Hyberniæ Reginæ fidei defenſor, &c. vicecomiti Kanc. ſalutem:

ſalutem. Quia A.B. de C. in dicto comitatu tuo yeoman, venit in curiam noſtram apud M. tali die &c. coram H. Co. milite, & ſocijs ſuis (cuſtodibus pacis noſtræ, necnon Iuſticiarijs &c.) ac ſe reddidit priſonæ noſtræ (occaſione quarundam feloniarum vnde coram eis indictatus eſt) vt in eadem moretur, ſicut nobis conſtat: Dz thus, (Quia inuenit nobis ſufficientem manu captionem eſſendi coram præfatis Iuſticiarijs ad proximam generalem Seſſionem pacis in dicto comitatu tenendam, ad reſpondendum nobis de quibuſdam felonijs, vnde coram eis indictatus exiſtit) Ideo tibi præcipimus, quod de vlteriùs exigendo præfatum A. B. ad aliquem comitatum tuum, vel eum impriſonando, ſiue ipſum ea occaſione moleſtando, omnino ſuperſedeas. Et habeas tibi hoc Breue. Teſte &c.

Some other formes of Superſedeas there be in that olde booke, proceeding from one Iuſtice of peace, which I doe pretermit, becauſe I ſee not how they be warranted at this day. Neuertheleſſe this precept following, I will drawe from thence, that others may aduiſe vpon it with me.

For the remouing of a petite Conſtable.

ELizabeth Dei gratia &c. vicecomiti Middleſexiæ, necnon capitali conſtabulario villæ hundredi de W. & eorum cuilibet, ſalutem: Quia W.P. & R.S. ſubcõſtabularij villę de C. & K. (certis de cauſis nos mouentibus) ab officio ſuo amoueri & exonerari fecimus: Ideo vobis & cuibet veſtrum coniunctim & diuiſim precipimus & mandamus, quod I.F. & R.M. ad omnia & ſingula eidem officio incumbẽtia bene & fideliter exercenda & exequenda (prout ipſi nobis inde reſpondere voluerint)

voluerunt) iurare faciatis: dictíſque W.P.& R.S. ſimiliter iniungentes, quod ipſi de dicto officio vlteriùs exercendo & exequendo nullatenus ſe intromittant, quouſq; aliud de nobis habuerint mandatum. Et quicquid inde feceritis, luſticiarijs noſtris ad pacem noſtram in dicto comitatu conſeruandam aſſignatis, ad proximam generalem Seſſionem pacis apud C. in dicto comitatu tenendam, certificetis, hoc præceptum noſtrum tunc & ibidem remittentes. Teſte T. M. vno luſticiarorum noſtrorum prædictorum, tali die. &c.

A writ of reſtitution vpon the Statute (21.H.8.cap.11.) to the owner of goods ſtollen.

ELizabeth Dei gratia &c. I.F. Balliuo de M. in comitatu noſtro Kanc. generoſo, Salutem. Quia I.S. nuper de O. in dicto comitatu **Labourer**, nuper indictatus, reſtatus, & legitimo modo per patriam apud M. in comitatu prędicto coram H. Co. milite & ſocijs ſuis cuſtodibus pacis noſtræ, necnon luſticiarijs noſtris ad diuerſas felonias, tranſgreſſiones, & alia malefacta in dicto comitatu perpetrata audiendum & terminandum aſſignatis, ratione euidentiæ per E. H. de L. in comitatu prædicto contra eundem I.S. datæ inuentus fuit culpabilis, de eo quod idem I.S. 2. die Maij, anno regni noſtri 30. apud O. prædictam in comitatu prędicto, duas vaccas (coloris rubei, ad valentiam trium librarum) de bonis & catallis præfati G.H. ad tunc ibidem inuentas felonicè cepit & abduxit: Ideo tibi prędipimus, pariter & mandamus, quod ſi bona & catalla prędicta, vel aliqua inde parcella, ad manus tuas deuenerunt, tunc tu bona & catalla prædicta eidem G. H. deliberari facias indilatè. Teſtibus præfato H. C. milite, & A. B. Armigero vno Iuſticiariorum prædictorum apud M. prædictam, 24. die Septemb. Anno regni noſtri Triceſimo.

The

The returne of a *Certiorai*, ſent to remoue an *Enditement*, may be thus faſhioned.

Firſt, vpon the backeſide of the Writ of Certiorari, *endorſe theſe, or the like wordes.*

Executio iſtius. Breuis patet, in quadam Scedula eidem Breui annexa.

And that Scedule *may be thus:*

Ego A.B. vnus cuſtodum pacis, ac Iuſticiariorum Dominæ Reginæ, ad pacem in dicto com. Kanc. conſeruandam, necnon ad diuerſa felonias, tranſgreſſiones, & alia maleſacta in eodem comitatu perpetrata audiendum & terminandum aſſignatorum, virtute iſtius Breuis mihi deliberari, indictamentum illud (vnde in dicto Breui fit mentio) vnà cum omnibus idem Indictamentum tangentibus, in Cancellariam dictæ Dominæ Reginæ, diſtinctè & apertè ſub ſigillo meo certifico. In cuius rei fidem & teſtimonium, ego præfatus A. B. hijs præſentibus ſigillum meum appoſui: Datum die menſis Anno regni, &c.

Then take the Record of the Enditement: and cloſe it within the Scedule, and ſeale them both vp together.

2145H

THE Duties of Conſtables, Borſholders, Tythingmen, and ſuch other lowe Miniſters of the Peace.

Whereunto be alſo adioyned the ſeuerall offices of Churchwardens: of Surueyors for amending the highwayes: of Diſtributors of the prouiſion for noyſome Foule and Vermin: of the Collectors, Ouerſeers, and Gouernours of the Poore; and of the Wardeins and Collectors for the houſes of Correction.

Firſt collected and penned by WILLIAM LAMBARD *of Lincolnes Inne Gent.* 1582.
and now enlarged by the ſame authour, 1587.

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